COURT OF APPEAL FOR ONTARIO
FILED / DÉPOSÉ
MAR 11 2026
REGISTRAR / GREFFIER
COUR D'APPEL DE L'ONTARIO

Court of Appeal File # COA-25-OM-034
(DC-24-00000525-00JR)

COURT OF APPEAL FOR ONTARIO

BETWEEN:

ELAINE WELKOFF

Applicant
Moving Party

- and -

HEALTH PROFESSIONS APPEAL AND REVIEW BOARD,
COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO,
and DR. LEIGH SOLOMON

Respondents
Responding Parties

MOTION RECORD OF THE MOVING PARTY ELAINE WELKOFF
(Motion for Leave to Appeal from the Divisional Court judgment to the Court of Appeal for Ontario returnable in writing)

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MOTION RECORD
of the Moving Party Elaine Welkoff

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TAB 1

- Notice of Motion for Leave to Appeal to the Court of Appeal

COURT OF APPEAL FOR ONTARIO
FILED / DÉPOSÉ
22SEP2025 JM
REGISTRAR / GREFFIER
COUR D'APPEL DE LONTARIO

Court of Appeal File # COA-25-OM-0346
Court File No. DC-24-00000525-00JR

COURT OF APPEAL FOR ONTARIO

BETWEEN:

ELAINE WELKOFF,

Applicant
Moving Party

- and -

HEALTH PROFESSIONS APPEAL AND REVIEW BOARD,
COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO, and
DR. LEIGH SOLOMON

Respondents
Responding Parties

NOTICE OF MOTION FOR LEAVE TO APPEAL

The Moving Party/Applicant, Elaine Welkoff, will make a motion in writing to the Court of Appeal for Ontario pursuant to Rule 61.03.1 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 to be heard in writing on a date to be fixed by the Registrar, or in such other manner as the Court may direct.

THE MOTION IS FOR:

1. An Order granting the Moving Party Elaine Welkoff leave to appeal the judgment of the Ontario Divisional Court dated August 8, 2025, in Elaine Welkoff v. HPARB et al (File No. DC-24-00000525-00JR);

2. Such further and other relief as the Moving Party may advise and this Honourable Court may deem just.

3. The Moving Party is not seeking costs.

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THE GROUNDS FOR THE MOTION ARE:

Factual Background

1. The Moving Party (Applicant), (with decades of living a very happy life), went through an exceedingly unusual traumatic period with too many factors to list here, including a particular trauma event that was the final straw that brought her to the point of attempted suicide. She was forced to Oshawa Hospital where she endured a very terrible experience. Upon leaving she continued to try to die again and ended up at the Emergency Department of the North York General Hospital two days later March 20, 2022, to try and get help to die, due to the fact that the methods that were the only choice were excruciatingly difficult, painful, and causing great suffering while concurrently unbearably suffering with the trauma related effects; or to find appropriate help for the perhaps chance of continued living. After the NYGH hospital stay she continued the intent and attempts to commit that suicide for a specified period of time.

2. The assigned doctor at NYGH Dr. Leigh Solomon decided about the patient (Moving Party/Applicant) before even meeting the patient, due to wrongfully profiling her, wrongful influence factors, and resentment and protectionism issues, and refused to allow the patient to even speak, refused to treat the patient, literally stating those things directly to her upon the first seconds of first session, continued with that and other awful behaviour, in what constitutes mental and emotional abuse upon a suicide intent patient. The doctor wrote a fictional story with a massive amount of lies as to what transpired between herself and the patient (Moving Party) and what she (the doctor) did or did not do as the assigned doctor in every one of her notes in the patient's personal health file to cover - all of which can be substantiated as lies by a large number of other notes by other staff of the hospital (which includes documented proof of sent messages from nurses directly to the doctor), and by the Applicant's materials and evidence. The doctor also made a false statement in the discharge summary.

[1] Factual Background, paras. 1-6, Notice of Motion for Leave to Appeal

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3. Arising out of extremely serious acts by a psychiatrist doctor and the resulting serious effects on a patient while being at the hospital for those days, which includes being thrown outside on a curb like garbage in a freezing cold winter snowing storm without clothing or coat (she did not have any at the hospital) only wearing a hospital garment (had no one to call for help during that time); as well causing *variable* types of ongoing additional serious harm as a consequence (which included affecting any subsequent attempts at getting appropriate help); the Applicant submitted a vital complaint to the CPSO. All of the aspects outlined above were well spelled out/defined/documented in the patient's Patient Experience Report Complaint and various subsequent lists of complaint. All of the above aspects were well substantiated by the evidence brought before the Committee and brought before the Board. Even during the complaint and part of the HPARB process the Moving Party/Applicant further attempted the suicide (particular members of the CPSO and the Board aware).

4. The decision of the CPSO was flawed seriously, their investigation being inadequate based on the relevant key issues of the complaint, and the decision being unreasonable - it did not align with the relevant facts and evidence. The CPSO/Committee was *improperly* selective, they avoided, minimized, sugar-coated, downplayed, and *guised* the true main relevant extremely serious issues regarding the doctor, the overall Complaint, and the overall relevant factors, disregarding the substantiating evidence. In bias, whether consciously or unconsciously, they applied wrongful disproportionate concern for the doctor in how they conducted the investigation, review, decisions, as compared to the degree of harm and the serious pain and suffering, life and death matter that was caused to the Applicant. Serious falsehoods written and wrongful random baseless diagnosis in a patient's health-records is serious and deadly. The degree of the wrongs the doctor perpetrated is unacceptable (and in part even a crime). The Committee devised a disposition remedy that was unreasonable and against the facts, which was even confirmed as having no evidence by the Committee themselves. In doing so, lessening the outcome impact on the doctor, demonstrating bias to the doctor.

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5. The Applicant requested a review by HPARB on justifiable reasons and grounds. The HPARB confirmed the ICRC decision. The HPARB's decision was unreasonable and unfair. It did not align with the relevant facts and evidence and relevant legal principles. The Committee and the Board displayed a disrespect to the obvious truth, and to the facts and evidence brought before them. All the doctors' lies in her notes and in her responses detailed by the Applicant has substantiating evidence in the Record brought before the Board as being deliberate *falsehoods*, yet no substantiating evidence for the doctor in defending her cover up. Reasonable common sense, especially given the volume of falsehoods and the evidence substantiating, dictates that upon an *adequate* review of the Record only deliberate falsehood crafting can be a reasonable conclusion, when cross-referenced *adequately*. There was no need for "exhaustive" investigation. HPARB upon it's decision, also made arbitrary orders with manipulation and false basis in an attempt to completely prevent transparencies in this matter (which the Applicant did fight and won for most transparencies).

6. The Applicant submitted an application for judicial review. The Panel of the Divisional Court dismissed the application. The Panel erred in dismissing the application.

The Moving Party (Applicant) will make a motion for leave to appeal.

There is good reason to believe that the Court erred. There is good reason to doubt the correctness of the Panel's dismissing the application, (also to doubt the reasoning and fairness):

1. The Panel erred in its interpretation as to the Divisional Court's role in a judicial review, especially in very serious cases. The Panel erred that the applicable standard of review in this case of judicial review by the divisional court was *solely* reasonableness. The Panel erred in concluding that the decision of the HPARB was reasonable. A reasonable decision is based on a logical chain of reasoning, and it has to make sense in light of the facts and the law. The Panel erred in that it failed to properly consider the Rule of Law. The Panel erred in not ensuring that a government decision is fair, reasonable, and lawful.

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2. This case is not a question of fact alone. Even if it were, there are other seriously important circumstances to consider.

3. The Panel erred in that it is quite apparent upon reading the Panel's reasons (and upon other factors) that in making the judgment the court failed to properly examine, consider and rely upon the actual evidence (the Record) that the HPARB had before them. It is also apparent that the Panel failed to properly examine, consider, and *rely* upon the Applicant's evidence, pleadings, authorities, etc. (including substantiating evidence) that was filed and available to the judges. The Panel just copy recited in their written judgment from the decisions of the HPARB and ICRC, and from bald/baseless assertions from the respondents. There were many misleading, untrue, and contradicting statements made in that material from the respondents. The Panel erred in not examining, considering and relying with *equal* attitude. The Panel erred by drawing *speculative* conclusions in *relying* only on the information written in the decisions of the HPARB/ICRC and many baseless submissions/arguments from the Respondents. Proper examining and considering the Record in order to conduct a proper judicial review is essential in a Judicial Review, and it is *not* equivalent to re-evaluating the evidence and/or coming to their own decision as if in a first instance. The Panel erred in that it failed to conduct a proper by law standard of judicial review in reviewing the HPARB decision.

4. There are issues in regard to the Panel's post-hearing direction and submissions.

5. The panel erred in regard to the justifiable raised issues of procedural fairness. The Panel's conclusions are contrary to what the Applicant Moving Party did provide, explain and raise to HPARB (inclusive of some documented evidence). As well, some of the procedural fairness issues are self-evident.

6. The Panel erred: in *just accepting* from the respondents as to what were the main serious central complaints/issues/concerns of the Applicant; in regard to the matter of the doctor's CPSO file/previous decisions/cautions, in regard to the factors of the motion and what

Pg. 5, para. 3

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was involved in the motion hearing; in regard to the fact that the doctor was indeed provided with the ICRC decision three months before it was provided to the Applicant (Moving Party); in regard to the relevant serious factors of the case. Evidence is available in the Record and in materials from the Applicant to that effect.

7. The Panel erred regarding the Canadian Medical Association Code of Ethics element and the misconduct element.

8. The Panel made a clear palpable and overriding error in accepting the outcome of the decision that the remedial agreement is a reasonable disposition in this case. It is an obvious palpable and overriding error as well as highly unreasonable *especially* in this case. When there is no evidence to support a particular decision outcome AND the decision maker (ICRC) even *explicitly states* that there is no evidence supporting a particular decision outcome, but then proceeds to make that disposition, it is a palpable and overriding error and unreasonable. It would be across the board in any case at all. Disturbingly this error not only affected the outcome but it *is* the decision outcome.

9. The Panel erred in that it failed to apply that the record of proceedings is the foundation upon which a judicial review of the HPARB decision is built on. Without proper examining, considering and relying on the Record, it would be difficult, if not impossible, for the Panel to determine whether the HPARB decision was fair, reasonable, and lawful, and provided proper reasons for its decision. The court needs to examine the “substance” of submissions from the HPARB, not just their unfounded rhetoric and bald/baseless assertions.

10. Of *very* serious concern, the Panel erred by breaching the principle of procedural fairness in the way they conducted the in-person hearing.

11. The Panel erred by dismissing the application without just cause and without sufficient reasoning. The reasons are just a copycat of the Board and Committee decisions/respondents.

The actual reasons/analysis that come from *the Panel* are vague, unclear and insufficient, with some irrelevant notations in regard to conclusions.

12. The Panel did not consider how the outcome would seriously affect factors/issues regarding the Applicant (Moving Party), nor the effect on all the general serious concerns as listed below, and focused only on any issues to do with the individual respondents.

13. The moving party will suffer *irreparable* harm, in regard to the ongoing harms from her recent experiences, then the unacceptable experiences during "healthcare", and the continuing subsequent effects and consequences (which includes being unable to ever get appropriate help in regard to the trauma related suffering) as well as due to the unfairness, the erring, and the lack of justice that has been afforded her, if the motion for leave to appeal were refused. The balance of serious issues and the serious harm to the moving party applicant, and also as far as public concerns, matters of general importance, and systemically, as well as concerns raised regarding the judicial review, favours the granting of the leave for appeal and far outweighs any opposite submissions. This case is not only far too serious to have had the Application wrongly dismissed in regard to the Applicant (every serious case and person counts) but also as far as the public interest, public concern, general importance, *and systemically it is extremely relevant.*

14. The Panel did not recognize that the issues it mentioned are *already* widespread in practice and are serious systemic issues.

15. A Judicial Review is constitutionally protected and *all* applicants have the right to a proper judicial review, even in judicial reviews of HPARB decisions, and that negates any submissions that the buck stops at any earlier point. The Panel erred in it's attitude of complete blind deference to the HPARB in all regards and in all aspects of the case in turn then to the CPSO, which constitutes a double issue of improper review. The Applicant has the right to pursue an Appeal to the Court of Appeal for Ontario and filing a Notice of Motion for Leave to Appeal.

[3] matters of great public import, pgs. 8-9

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16. This case has special circumstances.

Issues of General Importance

1. The proposed appeal raises matters of clear general importance, public concerns, general interest, and heavy systemic issues.

2. There is a clear issue of a history-longstanding and ongoing widespread harming and abuse upon an incredible amount of patients (who in general are non-violent, non aggressive people) in "mental health" units. Those who are supposed to help (not all, but in general) are causing serious harm to a great many patients. Furthermore, their personal, human, and legal rights are virtually withdrawn. It is disturbing and frightening. It is certainly evident that mental health, emotional health, the traumatized inflicted, suicides, etc. issues have been and continue to be of an insufficient concern to the CPSO, HPARB, and then to court, matters. It is apparent that systemic problems exist in healthcare *and* health-records in general, however the most serious by far, most vulnerable, and widespread exist in regard to the above noted persons, for obvious reasons. Cases in the areas as listed have been and are being viewed, treated and decided upon sub-standardly, as compared to other cases. These serious issues are clearly of too great a public concern and importance and the serious systemic issues have been overlooked for far too long. There is a clear issue of provincial and national concern regarding mental health, emotional health, traumatized inflicted, suicides, etc (drugs etc.). These systemic issues most clearly *connect*. The clear vulnerability, the clear easy opportunity of taking advantage, breeds much abuse of patients physically, emotionally, and in writings, going on in this area. With the increases, and revolving door aspect, every year regarding mental health, emotional health, the traumatized inflicted, suicides, etc. issues, and as well to be noted drugs etc., these connections need to be finally *accepted* and taken *seriously*.

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3. The proposed appeal raises issues that are of general importance in the practice of judicial reviews.

4. The proposed appeal raises concerns regarding the "*status*" of parties in proceedings.

5. The proposed appeal raises concerns regarding "stigma" in proceedings.

6. The proposed appeal raises concerns regarding "marginalization" in proceedings.

7. The proposed appeal raises the concerns of procedural fairness in that in reality there is no such thing as lawyers available, no matter how hard they try to get any type of legal help at all, for a large group of people, but *foremost* by far in regard to the above-mentioned groups.

8. The proposed appeal raises concerns and issues that are of such seriousness, general importance, public/societal concerns, general interest, and *inter-related* systemic concerns, the issues regarding CPSO and HPARB, the practice of judicial reviews, and to the administration of justice as a whole, and is *prima facie* meritorious.

9. The proposed appeal involves matters of such importance to the administration of justice that leave to appeal to the Court of Appeal should be granted.

10. The cases in areas of mental health, emotional health, trauma, suicides, etc., cases need to be and should be open to inclusion to the Court of Appeal.

11. Section 6.03.1 of the Rules of Civil Procedure, R.R.O. 1990.

12. Section 6(1) of the Courts of Justice Act, RSO 1990, c. C. 43.

13. Judicial Review Procedure Act, R.S.O. 1990, c. J1.

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14. such further and other grounds as the Moving Party (Applicant) may advise and this Honourable Court may permit; and such further and other authorities as the Moving Party may advise and this Honourable Court may permit.

15. **The proposed questions for consideration by the Court of Appeal should leave to appeal be granted include the following:**

i) Did the Court err in applying the standard of review as *solely* reasonableness in this case?

ii) Did the court err in it's judgment that the HPARB decision was reasonable?

iii) Did the court provide a proper Judicial Review? (in regard to the listed issues by the Moving Party?) Did the court err in any of it's interpretations as to it's role in a judicial review?

iv) Did the court err regarding the remedial agreement? Did the court err in accepting respondent Dr. Solomon's submissions after the fact that the remedial agreement and topic of the remedial agreement should be accepted by the court when based on the respondent's inaccurate and contradictory information to the already established evidence and as confirmed by the ICRC?

v) Did the court err in accepting the respondents' claim that this matter is not a serious matter, and the court not accepting this as serious in Judicial Review?

vi) Did the court err in the way the in-person hearing was conducted?

vii) Did the court err in not understanding and considering the importance of all the general concerns and systemic issues? in how it will continue to effect the future? as well as the significant impact and harm on the Applicant?

viii) Did the court err in it's acceptance of the respondents claim that total blind deference should be given HPARB in all respects and all aspects of the case and in turn also the CPSO, in coming to it's judgment?

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ix) Did the court err in not *considering* that this case *may* be one of the rare cases that a court may decide an outcome with its own based on particular elements of this case?

x) Did the court err in not providing adequate and clear reasons of their own in dismissing the application?

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The judgment of the Divisional Court;
2. Motion Record and Factum of the Moving Party, to be filed;
3. Relevant portions of the proceedings below;
4. Such further and other evidence as the Moving Party (Applicant) may advise and this Honourable Court may permit.

August 22, 2025

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TAB 2

- Decision of the Divisional Court dated August 8, 2025

CITATION: Welkoff v. Ontario (Health Professions Appeal Review Board), 2025 ONSC 4515
DIVISIONAL COURT FILE NO.: 525/24
DATE: 20250808

ONTARIO

SUPERIOR COURT OF JUSTICE

DIVISIONAL COURT

Backhouse, Lococo and Jensen JJ.

BETWEEN:	)	
ELAINE WELKOFF	)	
Applicant	)	Self-represented
– and –	)	
HEALTH PROFESSIONS APPEAL AND REVIEW BOARD, COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO, and DR. LEIGH SOLOMON	)	*Steven Bosnick* and *Roberto Walcott*, for the Respondent – Health Professions Appeal and Review Board
Respondents	)	*Ruth Ainsworth*, for the Respondent – College of Physicians and Surgeons of Ontario
	)	*Eric Pellegrino*, for the Respondent – Dr. Leigh Solomon
	)	**HEARD at Toronto:** June 26, 2025

Backhouse, J.

[1] The applicant Elaine Welkoff seeks judicial review of the decision of the Health Professions Appeal and Review Board (the "HPARB") dated August 8, 2024, reported at 2024 CanLII 74262 (the "Decision"). The HPARB upheld the decision of the screening committee, the Inquiries, Complaints and Reports Committee ("ICRC"), of the Royal College of Physicians and Surgeons (the "College") dated July 28, 2023, that resolved the complaint against Dr. Leigh Solomon (the "respondent doctor") by way of remedial agreement. The remedial agreement required the respondent doctor to self-study in the risk factors and management of personality disorders and persistent depressive disorders and discharge planning and submit a 2000-word report to be reviewed by the College.

[2] The applicant seeks to quash the Decision on the basis that the ICRC's investigation was inadequate, there was a denial of procedural fairness and the HPARB's decision was unreasonable.

[3] For the reasons set out below, the application is dismissed.

Factual Background

[4] The applicant attended the Emergency Department of the North York General Hospital on March 20, 2022. She expressed "wanting to commit suicide" and requested a medical assistance in dying procedure.

[5] The applicant had a history of mental health problems but had not required psychiatric treatment for a long time. She recently had some health issues and losses, she had moved, and was living on her own. She was affected by the COVID-19 pandemic and felt she needed help.

[6] The applicant was admitted on a voluntary basis to the psychiatry unit under care of the respondent doctor, who met with the applicant on March 21 and 22, 2022. The respondent doctor completed her initial consultation note on March 23, 2022. The respondent doctor's diagnostic impression was persistent depressive disorder with dependent and borderline personality features.

[7] The respondent doctor began to introduce discussion around a discharge date, potentially on Friday, March 25, 2022. During the admission, the respondent doctor prescribed Prozac, which the applicant declined, having previously tried the medication.

[8] The hospital notes and the applicant's complaint indicate the applicant was at times unhappy with the care she was receiving from the respondent doctor during the admission.

[9] The respondent doctor agreed to allow the applicant to stay through the weekend (March 26 and 27, 2022). The applicant understood that another psychiatrist would take over her care after the weekend. However, on Monday, March 28, 2022, the respondent doctor was on the unit and discharged the applicant. The applicant resisted and left the hospital accompanied by security guards.

[10] On August 25, 2022, the applicant lodged a complaint against the respondent doctor.

[11] As found by the ICRC, the applicant's overall complaint was that the respondent doctor did not properly assess or treat her. The applicant complained that the respondent doctor never really discussed her concerns with her and she felt the respondent doctor deemed the admission was illegitimate. The Complaint specified the applicant's concerns about the respondent doctor as:

- inappropriately told her that she should never have been admitted and that there was no help there for her;
- inappropriately profiled her;

- refused to offer outpatient supports;
- made untrue statements;
- instructed the social worker to only provide Oshawa Durham Region resources;
- had her forcibly removed from the hospital on a snowy day while she was in an active suicidal ideation state; and
- provided falsehoods in the discharge summary, which heightened her suicidal ideation state and affected subsequent care.

ICRC Decision: May 9, 2023

[12] While the Mental Health Panel of the ICRC did not uphold all of the complaints specified above, it had a number of concerns with respect to the respondent doctor's assessment and treatment of the applicant:

No support in the medical records for the respondent doctor's diagnosis

[13] The ICRC found that there was no support in the medical record as to why the respondent doctor diagnosed the applicant as having persistent depression disorder and borderline personality. It found:

> We are concerned that the Respondent's notes do not address any real diagnostic issues or suicidal risk factors in a patient who said she wished to die. In the Committee's opinion, the notes do not provide a sense that the Respondent understands the complexity or the arc of this patient's treatment and recent responses in the Complainant's previous hospitalization. We would expect a more thorough initial consultation note from a psychiatrist, in terms of attempting to understand a patient just met.[1]

The records suggest that respondent doctor's discharge of the applicant could be considered a premature discharge putting a patient at risk

[14] The ICRC found:

> Again, the Committee is concerned, overall, that while the Complainant did say she was suicidal, the Respondent's notes do not explore this in any detail except to indicate it was passive ideation. The Respondent states that the Complainant rejected treatment, but based on our review of the medical record, it also appears there were difficulties in the parties' treating relationship itself.

[1] ICRC Decision, at p. 5, last para.

> The records support that the Complainant clearly stated to different individuals involved in her care that she was not ready for discharge, and she felt not listened to. Notations in the chart from multidisciplinary team members document the Complainant's suicidal thoughts and intent, including on the day before her discharge.
>
> The Committee is concerned about the discharge plan in this clinical circumstance. The records suggest this could be considered a premature discharge.
>
> Sending a patient home with multiple (documented) adversities may put them at risk. In this case, the Complainant had experienced an acute decline in the context of numerous stressors, including the added isolation of the pandemic. An inpatient stay with discharge to the same set of circumstances would represent a challenge for a vulnerable patient. Also, the Committee notes that while outpatient programmes were coming back on board at the time in question, they were still overwhelmed.[2]

The respondent doctor discharged the applicant with inadequate discharge planning

[15] The ICRC found that "the discharge note was curt with respect to a patient who felt misunderstood." It found:

> The brief discharge notes also indicates inadequate discharge planning, in the short notation by the Respondent of the follow-up instructions, "Suggest follow up with FD [family doctor] and suggest mental health support.[3]

The respondent doctor bears responsibility for much of the shortcomings in the treating relationship

[16] The ICRC found:

> Notes show that on the day of discharge, when a nurse asked about the Complainant wishing to remain in hospital (prior to security being called), the Respondent indicated that, "the pt [patient] doesn't want to be helped." However, this is clearly not the case, as set out in many of the hospital progress notes (even despite that some notes also describe some resistance to help).[4]
>
> Notes show that the Complainant presented differently to different people, and different psychiatrists were able to interact with her.

---

[2] ICRC Decision, at p. 7, first 4 full paras.
[3] ICRC Decision, at p. 8, third bullet point.
[4] ICRC Decision, at p. 6, first 4 full paras.

> Overall, the record suggests to the Committee that the relationship between the parties was not optimal. In our view, the Respondent bears responsibility for much of this**.**
>
> As just noted above, the Respondent's notes are sparse, providing little insight into the dynamics of the treating relationship. The notes suggest the Complainant's "help rejecting" was not understood or appreciated within the context of her also help-seeking. The absence of a proper risk assessment in the face of the Complainant's recent decompensation and her risk factors suggests to the Committee that the Respondent did not take her concerns sufficiently seriously and was inappropriately dismissive or not "listening".[5]

The respondent doctor did not try a different antidepressant with the applicant if the respondent doctor thought the applicant had a persistent depressive disorder.

[17] The ICRC stated:

> The record does not address the medication issue, or an attempt to try an alternative medication, only that the Complainant rejected the prescribed medication.
>
> …
>
> We also question why the Respondent did not try a different antidepressant with the Complainant, if she thought the Complainant had a persistent depressive disorder." [6]

The respondent doctor should have been aware, that proper discharge is fundamental to proper treatment of patients with persistent depression and borderline pathology

[18] The ICRC found:

> The Committee is aware that the Respondent's history at the College includes a previous written caution around discharge of a patient without assessing the appropriateness of discharge planning.
>
> Considering this history, the Respondent should be aware that proper discharge is fundamental to proper treatment of patients with persistent depression and borderline pathology, if indeed that is what the Complainant has.[7]

---

[5] ICRC Decision, at p.7.
[6] ICRC Decision, at p.8.
[7] ICRC Decision, at p.7, last 2 bullet points.

[19] The ICRC concluded that the respondent doctor could benefit from further education to assist her in gaining a better understanding around the risk factors and management of personality disorders and persistent depressive disorders, and discharge planning.

[20] The ICRC highlighted that there was no information to suggest that the respondent doctor would be incapable of remediation. The respondent doctor acknowledged the ICRC's concerns and agreed to engage in the self-study. The ICRC accepted a Remedial Agreement from her with respect to her knowledge in the areas of concern.

HPARB Decision: August 8, 2023

[21] The applicant appealed the ICRC decision to the HPARB. It found that the ICRC's investigation was adequate, the ICRC's decision was reasonable and there was no procedural unfairness.

[22] The HPARB found that the Remedial Agreement addressed the concerns the ICRC had identified by including in the scope of study to be undertaken by the respondent doctor i) "risk factors and management of personality disorders and persistent depressive disorders" as well as ii) "discharge planning as a whole", which addressed the applicant's specific concerns about the basis for the discharge and community supports after discharge.

[23] The HPARB noted that the ICRC has the discretion to choose the appropriate outcome and there may be more than one reasonable outcome for a particular complaint. It noted that the HPARB's role is to assess whether the outcome that the ICRC imposed falls within this reasonable range, not whether the outcome is correct, nor whether it is the outcome that the HPARB would have chosen: *J.H. v. J.S.,* 2018 CanLII 95968 (ON HPARB), at para. 82.

[24] The HPARB found that the ICRC's decision to accept the Remedial Agreement addressed the issues raised in the Complaint and served to protect the public interest by providing guidance to the respondent doctor in her future practice.

[25] As such, the HPARB found the Remedial Agreement fell within the range of reasonable outcomes.

The Remedial Agreement

[26] The Remedial Agreement the respondent doctor entered into with the ICRC stated that she understood its concerns and agreed that she would benefit from remedial work with respect to her knowledge in the following areas: (i) Risk factors and management of personality disorders and persistent depressive disorders, and (ii) Discharge planning. She committed to participating in self-directed educational efforts to address these concerns. She agreed to follow up by submitting a typed self-study report (approximately 2,000 words), complete with references of any material reviewed, to the College within four months of the date she signed the Remedial Agreement. The report was to include a description of the educational activities that she undertook to address the learning need, a summary of what she had learned, and an indication of how she has changed or plans to change her practice based upon this activity. The self-study report was to be reviewed by a staff member of the College,

and if there were ongoing concerns as a result of that review, the matter was to be taken back to the ICRC for consideration.

[27] The ICRC found that there was no information before it to suggest that the respondent doctor was not capable of remediation of the identified concerns.

Court's Jurisdiction

[28] The Divisional Court has jurisdiction to hear judicial reviews under ss. 2 and 6(1) of the *Judicial Review Procedure Act,* R.S.O. 1990, c. J.1.

Standard of Review

[29] The presumptive standard of review upon judicial review of an administrative decision is reasonableness: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 S.C.R. 653. The reasonableness standard of review applies in this case.

[30] An administrative decision maker is required to conduct their proceedings fairly. The degree of procedural fairness required is determined by reference to all the circumstances of the case, including the factors set out in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817, at paras. 21-28; see also *Vavilov*, at para. 77.

Analysis

Issue 1: Was the HPARB's finding unreasonable that the ICRC's investigation was adequate?

[31] The applicant submitted that the ICRC's investigation was inadequate because: (i) no interviews were conducted to clarify facts, and (ii) the investigation did not include all the complaints that the applicant brought forward, including some that she characterized as the "most important" (i.e. that the respondent doctor "blatantly lied" in her response to the ICRC).

[32] In its Decision, the HPARB examined the adequacy of the ICRC's investigation. It noted that an adequate investigation need not be exhaustive. Rather, the ICRC must seek to obtain the essential information relevant to making an informed decision regarding the issues raised in the complaint.

[33] The HPARB held that s. 26(1) of the *Health Professions Procedural Code*[8] (the "*Code")* requires the ICRC to make "reasonable efforts" to consider the records and documents that it deems relevant to the complaint. The ICRC "is not required to examine all records and documents, conduct interviews, hear testimony, or make findings of credibility": *Torgerson v. Ontario (Health Professions Appeal and Review Board)*, 2021 ONSC 7416 (Div. Ct.), at para. 45.

[8] *Health Professions Procedural Code,* Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18.

[34] The HPARB found that the ICRC provided the applicant with the respondent doctor's responses and an opportunity to reply and make additional comments. The ICRC spoke with the applicant three times (although the applicant states that these were simply requests by her for updates on the status of the complaint).

[35] The HPARB acknowledged the applicant's submissions regarding inaccuracies in the record. The HPARB found that the ICRC relied on the health records which did not contain compelling information to contradict the record. The HPARB found that the ICRC's Decision makes specific and frequent reference to the information in the Record to support its conclusions, and the conclusions were reasonable.

[36] The HPARB found that the investigation included the concerns that the applicant raised. It found that the ICRC's investigation covered the event in question, and that it obtained the essential information relevant to making an informed decision regarding the issues raised in the complaint.

[37] The HPARB found that the ICRC considered the applicant's allegations that the respondent doctor made inappropriate and untrue statements and profiled her. The HPARB found that the ICRC reviewed the medical records and while it was critical of the curtness of the respondent doctor's discharge note where the patient felt misunderstood, it did not find that there were untrue statements in it.

[38] The HPARB Decision outlines its reasons for finding the ICRC's investigation to be adequate and the HPARB's finding was reasonable.

Issue 2: Was the HPARB's decision procedurally fair?

[39] The applicant outlines 21 procedural fairness issues. For example:

- Hiding the respondent doctor's record with the College;
- Obscuring the main complaints;
- Omitting the College's emails from the record;
- Omitting relevant evidence from phone discussion notes;
- Refusing to provide the applicant with a copy of hospital records; and
- The investigator not interviewing the applicant.

[40] The applicant does not explain how these amount to breaches of procedural fairness, nor does she rely on any caselaw to support her arguments.

[41] Most of the applicant's allegations of procedural fairness relate to the ICRC Decision and were not raised before the HPARB.

[42] The issue of the respondent doctor's summary of her regulatory history with the College not being provided to the applicant was the subject of a motion before this court and the applicant did not pursue this issue. The ICRC and HPARB explicitly considered the respondent doctor's regulatory history in their decisions.

[43] The applicant's allegation that the respondent doctor was provided with the ICRC Decision in May 2023, two months before it was provided to the applicant, is incorrect. The respondent doctor engaged with the College on a possible Remedial Agreement in May 2023. The respondent doctor received the decision on the same day as the applicant, July 28, 2023.

[44] There is no justiciable issue of procedural fairness. The applicant was afforded the requisite procedural fairness.

Issue 3: Was the Decision unreasonable for upholding the ICRC's acceptance of a remedial agreement?

[45] The applicant submitted that the disposition was unreasonable because it did not address her main concerns that the respondent doctor committed deliberate falsehoods in the hospital records and in her responses to the College.

[46] The ICRC did not find that the respondent doctor committed falsehoods or violated the Code of Ethics. The HPARB found that the ICRC investigation covered the event in question and that it included the concerns that the applicant raised. It is not the role of the court to substitute its own factual findings for those of the ICRC.

[47] Deference is owed by the court to the disposition chosen by the ICRC and upheld by the HPARB. The Panel accepts that remediation requiring study and a report in the areas of concern found by the ICRC is a reasonable disposition in this case. However, given what appear to be the serious findings and the prior written caution in regard to similar issues, albeit dated, the Panel had a concern that the disposition of a remedial agreement was crafted for the purpose of avoiding public disclosure.

[48] Under the *Code* and the amendments thereto in the *Protecting Patients Act, 2017*, S.O. 2017, c. 11 (the "*PPA*"), remedial agreements are not required to be posted on the College's public website, while a disposition that requires a physician to take a remedial program is required to be posted and disclosed publicly: *Code*, s. 23(2)7.

[49] The reasonableness of the disposition from the perspective of protecting the public interest in the transparency of these proceedings as reflected in the *PPA* was not addressed at the hearing or in the parties' factums. Accordingly, the Panel asked for written submissions from the parties.

[50] The applicant submits that the seriousness of the findings in this matter required protecting the public interest through public posting on the College's website. She submits that transparency was important both for public awareness by the public and to promote a better culture and behaviors by physicians.

[51] The respondent doctor submits that the remedial agreement should be found to be reasonable because, among other reasons, it was a negotiated resolution and the doctor completed the remedial program in 2023.

[52] The College submits that the legislature's choice to limit the types of outcomes that must be disclosed publicly reflects an understanding that some ICRC outcomes are more serious or address a greater risk than others.

[53] The College further submits that this court has repeatedly held that the fact that verbal cautions and specified continuing education or remediation programs ("SCERPS") are now public is irrelevant to a court's task in determining whether a disposition was reasonable.[9] It submits that transparency regarding the decision is the consequence of the decision, not a relevant consideration for the panel making the decision. However, it does not follow that if the disposition is being chosen to avoid public scrutiny, the court is not permitted to consider that to be a relevant factor in deciding whether the disposition was reasonable.

[54] The ICRC found that in this case, the respondent doctor prematurely discharged the applicant who had suicidal thoughts and intentions, including the day before she was discharged. The ICRC found that the applicant had made it clear that she was not ready for discharge and that discharging her without adequate planning where outpatient programs were still overwhelmed following Covid may have put her at risk. It is not apparent from the findings and the prior caution why this would not fall into the more serious or greater risk category requiring a disposition that must be disclosed publicly.

[55] There is nothing wrong with remedial agreements *per se* if the facts are not particularly serious. If dispositions are crafted for the purpose of avoiding the transparency provisions of the *Code* and the amendments thereto in the *PPA*, this will undermine the openness and public scrutiny of the College's regulation and governance of physicians which the legislation seeks to ensure and may result in the disposition being found to be unreasonable.

[56] Were this Panel to find that the disposition was unreasonable on this basis, the appropriate course of action would be to remit the matter to the HPARB. Given that the respondent doctor completed the remedial program in 2023, it is not sensible or necessary in this case, given the passage of time, to remit the matter to the HPARB. We raise this issue in case the practice becomes more widespread and is a systemic issue.

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[9] *Dr. Rajiv Maini v. HPARB*, 2022 ONSC 3326, para.56.

Conclusion

[57] The application is dismissed. As agreed by the parties, there is no order of costs.

Backhouse J.

Lococo J.

Jensen J.

Date: August 8, 2025

Court of Appeal File # COA-25-OM-0346
DC -24-00000525-00JR

COURT OF APPEAL FOR ONTARIO

BETWEEN:

ELAINE WELKOFF,

Applicant
Moving Party

- and -

HEALTH PROFESSIONS APPEAL AND REVIEW BOARD,
COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO, and
DR. LEIGH SOLOMON

Respondents
Responding Parties

FACTUM OF THE MOVING PARTY ELAINE WELKOFF
(Motion for Leave to Appeal)

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FACTUM of the Moving Party Elaine Welkoff

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PART I - INTRODUCTION AND OVERVIEW

1. The moving party, Elaine Welkoff (Ms. Welkoff), seeks leave to appeal the decision of the Divisional Court dated August 8, 2025 dismissing the Application for Judicial Review of the decision of the HPARB.

2. A factual background in this case is found in the Notice of Motion for Leave to Appeal herein.[1] The CPSO/ICRC and the HPARB ignored/avoided the ***serious central issues and concerns raised by Ms. Welkoff***. Only a complainant herself/himself can know what they experienced and what their serious issues and concerns were/are regarding that experience. Ms. Welkoff spelled out her *central issues and concerns* in the Patient Experience Report/Emails/ Voicemails Complaint, and then over and over again throughout the process. It is not for others to state what *an individual's serious key issues and concerns* are regarding her *own* experience and subsequent complaint. It is also not justifiable for those central issues and concerns to be ignored and avoided.[2] The investigation was inadequate in that it was not based on investigating Ms. Welkoff's actual concerns, with ICRC and HPARB avoiding addressing them and avoiding the evidence relevant to *those key issues and concerns*. Furthermore, any other issues that *may have been* addressed were minimized, and the true concerns were avoided. Then, the actual decision final outcome was completely irrelevant to the case, it was irrational, there was no evidence to justify it (and it was even stated by ICRC themselves as having no evidence). HPARB confirming such an ICRC decision is representative of an HPARB decision being unfair, unreasonable, and unlawful. **The Divisional Court Panel erred in dismissing the Application for Judicial Review**.

3. **The Divisional Court failed to ensure** that a government decision is fair, reasonable, and lawful. Unfortunately, in this case **the Divisional Court failed** to conduct a proper judicial review, erred in law, failed to address the important *relevant central issues and concerns* and to provide full and sufficient reasons of their own for their decision.

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1 Notice of Motion for Leave to Appeal to the Court of Appeal, Tab 1, pgs. 2-4, paras. 1-6: factual background

2 *Vavilov and Minister of Citizenship and Immigration*, 2019 SCC 65, at para. 127 "(e) Submissions of the Parties".

4. Ms. Welkoff is making a motion for leave to appeal to the Court of Appeal. Section 6(1)(a) of the *Courts of Justice Act* R.S.O. 1990, c. C.43, provides that an appeal lies to the Court of Appeal from an order of the Divisional Court, on a question that is not a question of fact alone, with leave of the Court of Appeal as provided in the rules of court. This case is not a question of fact alone. There are questions of errors in law, mixed fact and law, and principles of law. This case requires this Honourable Court's concern and review, especially in a case of such a serious nature, which extends to involve ***matters of great public import*** as outlined in the Notice of Motion for Leave to Appeal herein.[3] This case is by far not the only case (past, present and future) to consider concerning such serious systemic issues in regard to the mental health, emotional health, trauma, suicides, etc. issues epidemics, as well as the other raised issues.

PART II - THE FACTS

5. Ms. Welkoff submitted Patient Experience Report/Emails/Voicemails Complaint [4] to CPSO which well spelled out the *key elements* of the complaint: ***that the doctor completely breached her duty of care, going against the Canadian Medical Association's code of ethics and conduct, committing misconduct, committed fraud in her writings, inflicting severe and life threatening harm on a patient in variable ways, which included also subsequent consequences of harm.*** These *central issues and concerns* along with a ***key issue and concern regarding the remedial agreement*** were well spelled out in Ms. Welkoff's submissions to the HPARB [5], and as well during the HPARB oral hearing. These key elements were well spelled out in the Notice of Application for Judicial Review [6]. These key elements were well spelled out in the **Applicant's Factum in support of the Application for Judicial Review** [7]. These key elements

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[3] Notice of Motion for Leave to Appeal to the Court of Appeal, TAB 1, pgs. 8-9: **matters of great public import**.

[4] Patient Experience Report/Emails/Voicemails Complaint, Relevant portions of the proceedings below TAB 4. **Key elements of complaint well spelled out in** Patient Experience Report / Emails / Voicemails Complaint, Tab 4(i).

[5] Submissions letter of Ms. Welkoff to HPARB, Relevant portions of the proceedings below Tab 4 (ii): **key elements of complaint well spelled out in Submissions letter of Ms. Welkoff to HPARB.**

[6] Notice of Application for Judicial Review, Relevant portions of the proceedings below Tab 4 (iii): **key elements of complaint well spelled out in Notice of Application for Judicial Review.**

[7] Portions of the Applicant's Factum in support of the Application for Judicial Review, Relevant portions of the proceedings below Tab 4 (v): **key elements of complaint well spelled out in Applicant's Factum.**

were *furthermore* spelled out over and over again throughout *all* the proceedings, and in all of Ms. Welkoff's documents.

6. The respondents did a skillful job of avoiding the central issues and concerns and diminishing the serious issues right from when the process/proceedings began (CPSO in-taker's insufficient complaint summary) and then progressed, barely even touching upon them. Nowhere in the "CPSO/ICRC's Decision" does it even touch upon Ms. Welkoff's *actual central concerns and the key elements* of complaint. The only barely scarce reference in the ICRC decision was:

> "the applicant's "Concern that the respondent provided falsehoods in her *discharge summary*"" [8]

with CPSO/ICRC's insufficient, obscure, vague response of:

> "The complainant's assertion that there are untrue statements in the *discharge note* leads the Committee to again *have questions about the Respondent's engagement with this patient*". [8]

This is ***not*** in any way at all addressing the *serious key elements* as well spelled out by Ms. Welkoff nor is it indicative of any investigation in any way at all on the *serious key elements*. As all the proceedings continued from the CPSO to the HPARB and **right through into the application for judicial review** the respondents continued to attempt to avoid them, however Ms. Welkoff kept stressing the central issues and concerns, bringing them from being obscured to the forefront - to which the respondents *after the fact* started altering their responses/submissions through the later stage of the application for judicial review process/proceedings to include a couple of vague, bald, contradictory, bare, insufficient statements regarding this. However, obviously, as the evidence confirms, it was always avoided by them and still continued to be. The exact same thing occurred in regard to the key issue and concern of the *blatant error in law* of the remedial agreement, only with even a stronger avoidance and lack of sufficient response.

7. The HPARB review did not address the inadequacy of the CPSO investigation into the key elements of the Complaint and the unreasonableness of the CPSO decision based on the relevant case at hand and on the facts and evidence brought before them, and also did not

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[8] CPSO/ICRC Decision, Tab 5 (iii), pg. 8: **The only barely scarce referencing…**

address the questions regarding the *principles of law*. **The Divisional Court continued this lack of concern for these very serious matters by not conducting a proper *judicial review***, which is necessary in order to make a responsible decision as to whether the HPARB's decision was fair, reasonable and lawful (and to ensure that the correct standards of review are applied). The court one-sidedly only relied on the submissions of the respondents. ***Again***, there was the avoidance regarding the relevant central issues and concerns and the evidence in support.

8. Some (to be strongly noted: only "*several" of the many*) of the relevant portions of the proceedings below from the *medical records* herein [9] (along with *Ms. Welkoff's Patient Experience Report/Emails/Voicemails Complaint)* is demonstrative as to the volume and type of huge discrepancies between facts and what was stated by the doctor (which can only amount to falsehoods by the doctor). It is an indication as well as to the discrepancies and avoidance in the respondents submissions, in the CPSO/ICRC and HPARB investigations/decisions, and **as well in the Divisional Court's decision** - which is indicative of an inadequate judicial review. It is also further indication of Ms. Welkoff's ongoing fight to have the actual key relevant concerns addressed properly being continually ignored. The documentation was brought forward to all concerned, **including the Divisional Court** for the Application for Judicial Review. It demonstrates how the doctor lied in her notes and responses, as was submitted by Ms. Welkoff, how there was substantiating evidence to the submission, and how there was no substantiating evidence for the doctor's notes, responses, submissions. Portions were indexed for the Divisional Court's ease of reference, but this engagement by the court did not happen.

9. The central issues and concerns were strongly and abundantly raised over and over by Ms. Welkoff, yet no adequate investigation, no adequate HPARB review, **nor an adequate Divisional Court judicial review.** As confirmed in *Vavilov*, "a decision maker's failure to *meaningfully grapple with key issues or central arguments raised* by the parties may call into question whether the decision maker was actually alert and sensitive to the matter before it."[10]

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[9] Portions of the medical records, TAB 4(vi),
[10] *Vavilov*, at para. 128

10. The HPARB stated that they reviewed the Record "in detail", however that statement (which is only "a statement") is highly questionable given what Ms. Welkoff's *central issues and concerns* truly were/are and well documented, and all the substantiation in the Record; the actual statements of fact and evidence in the Record. It is also questionable given the tone of and what transpired during the HPARB hearing and the initial Case Conference (which only the HPARB moderator and Ms. Welkoff attended). There is nothing in the HPARB's decision and reasons that would confirm such a "detailed reviewing" of the Record by the Board. Rather the opposite can be substantiated. Another example is the respondents referring to "phone calls" yet their claimed substance of the calls is not the **true substance** of those calls. To make the above bare assertions, as well as others, in an effort to demonstrate all obligations in the procedures were afforded and/or available to the complainant/applicant and that all was done in accordance with the mandate and/or restrictions etc. is not confirming the actual *substance* that occurred in those steps, and is therefore misleading. Where was the judicial review from the Court? As per *Vavilov,* "Reasons that 'simply repeat statutory language, summarize arguments made, and then state a peremptory conclusion' will rarely assist a reviewing court in understanding the rationale underlying a decision and 'are no substitute for statements of fact, analysis, inference and judgment' ".[11] As such, adequacy, fairness, reasonableness, as well as the aspect of the errors and principles of law cannot be legitimately or fairly known and judged.

11. The HPARB review, decision and reasons were based *solely* on the written ICRC's decision and reasons. Any review by HPARB of a CPSO investigation and ICRC decision that is simply based on and repeats what the CPSO/ICRC submitted (which could hold serious variable types of flaws) and seeks only to justify it through that is an unfair process. Ms. Welkoff submits that is not what the legislature intended for the role of the HPARB to oversee CPSO decisions. It is quite evident that the Court in the judicial review based it's decision only on what was submitted in the below decisions and reasons and the respondents submissions.

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[11] *Vavilov* at para. 102

12. Ms. Welkoff submits that for reviewers to search only to find what *might* confirm any of the decision makers result(s) and not give equal attitudes in coming to a decision is bias and unfair. As explained by Kerans, Roger P. (the Honourable) "*The key to the problem is whether the reviewer is to look merely for "evidence to support" the finding. Some evidence might support the finding, but other evidence may point overwhelmingly the other way. A court might be able to say that reliance on the "some" in the face of the "other" was not what the reasonable tier of fact would do: indeed, it might say that, in all the circumstances it was convinced that to rely on the one in the face of the other was quite unreasonable. To say that "some evidence" is enough, then, without regard to that "other evidence" is to turn one's back on review for reasonableness.*" [12] To be noted as well, the only "some" evidence *in this particular case* is only the doctor's own notes and responses, which were all contradictory to the evidence and even a great deal contradictory to each other (her notes and her responses/submissions). A reasonable appearance of bias can be applied in this case. A reasonable appearance of misplaced finding of credibility by HPARB can also be applied, and as well to the Divisional Court whom only relied on the below written decisions and respondents submissions, not examining the record, and also not adequately examining Ms. Welkoff's pleadings and submissions. The facts and evidence indicate that *if any such credibility is to be* applied, for many logical reasonings, it would belong on Ms. Welkoff.

13. Regarding the Divisional Court's referencing of the procedural fairness issues, it is quite apparent from the court's written decision that they did not examine the record or Ms. Welkoff's pleadings themselves. Again, they only copied the direct lines from the decisions and submissions of the respondents. As well, the applicant Ms. Welkoff did indeed detail and explain in her pleadings as to how issues amount to breaches of procedural fairness. As well, there are procedural fairness breaches which when described are self-explanatory as being such.

14. Whether all would result in decided breaches of procedural fairness or not, which Ms. Welkoff submits some would certainly have to, the fact that the Panel did not themselves review this appropriately is quite apparent.

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[12] Kerans, Roger P. (the Honourable), "Standards of Review"

15. **The Divisional Court just accepted and copied**, without proper review "of the record", the respondents bare assertions. In example, the court copied the identical line from the doctor's factum:

> "…applicant alleges that Dr. Solomon was provided with the ICRC decision in May 2023, months before it was provided to the applicant. That is not accurate. …Dr. Solomon engaged with CPSO on a possible Remedial agreement in May 2023…she received the decision on the same day as the applicant, July 28, 2023."

In fact, it is *that* statement of the respondent doctor that is untrue. **The doctor was indeed provided with the ICRC's *determined* decision *from* the CPSO *to* Dr. Solomon approximately three months before it was provided to Ms. Welkoff. *There is clear substantiating evidence*.**[13] The twisting of it with strategically worded inaccuracies by the respondents/doctor/lawyer DOES NOT change the obvious facts. This was extremely detrimental to Ms. Welkoff in two ways. It was procedurally unfair and very prejudicial to Ms. Welkoff. Ms. Welkoff was not given the same timing to access its implications and potentially prepare for any necessary next steps. Three months is a relevant time period, especially in particular circumstances. Dr. Solomon was given an unfair advantage in preparing her next moves compared to Ms. Welkoff. Ms. Welkoff should have been given the same information regarding the decision at all times. Transparency and equal access to the relevant steps is a fundamental aspect of procedural fairness (especially in regard to any decision). As well, it was severely harmful to Ms. Welkoff given her state of suffering during that time. She was still in the intent of suicide and attempts episode, and desperately needed the facts and truths to be straightened out. [14] Again, this constitutes bias on the part of the CPSO towards the doctor. The Divisional Court erred in just accepting the lower inaccurate, unfair, irrational, and unreasonable submissions regarding this.

16. Regarding the issue of **the doctor's CPSO file** and the "HPARB motion" issue, the **Divisional Court erred in it's interpretation** as to what occurred regarding that motion, *again* due to just simply relying on the respondents submission regarding it. Before this matter could go to

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[13] *portions from the Record of Proceedings*, pgs. 607, 608, 611, 617, 619, 620, 621, Relevant portions of the proceedings below, Tab 4(vii): **The doctor was indeed provided with the ICRC's determined decision *from* the CPSO *to* Dr. Solomon approximately three months before it was provided to Ms. Welkoff.**

[14] further portions of the Applicant's Factum in support of the Application for Judicial Review, pgs. 35-36, Tab 4 (v) Relevant portions of the proceedings below: **harmful to Ms. Welkoff being provided ICRC decision three months after doctor.**

the filing of the Applicant's Application Record and Factum point, there was a huge volume of extra time, resources, work and effort (and even much more financial costs for Ms. Welkoff) due to the fact that the HPARB arbitrarily desired extreme non-transparency. Ms. Welkoff fought this. The main purpose of the HPARB's motion was to seal and publication ban the entire proceedings of the CPSO investigation and HPARB proceedings. (The matter in regard to the doctor's CPSO file was an added concern.) That non-transparency attempt was shocking to Ms. Welkoff. It would have been unfair and highly prejudicial to her. It would have been also detrimental to the public. She does not believe in such non-transparency from self-regulators and tribunals, especially in very serious areas. She fought it and won for most transparencies. [15, 16]

17. Furthermore, contrary to the following submission made by the respondent doctor *"the issue of the doctor's CPSO file not being provided to the applicant was the subject of a motion before this court and the applicant did not pursue this issue"* - that submission is misleading. During the zoom oral motion hearing, the procedural unfairness issue in regard to that additional aspect of the motion was discussed. The discussion of yet another motion ensued. Ms. Welkoff firstly ensured there would be *no prejudicial effects* on the Applicant if she did not motion for this before the application hearing. The reasons for not pursuing yet another motion "before" the application for judicial review hearing were discussed, detailed, and noted during the motion hearing, being: again a huge volume of time, resources, work and effort (and even much more preparation financial costs for Ms. Welkoff) in regard to a *yet another* motion - after *just going through that* with the first motion which took time, work, and focus away from her pleadings in preparation for the Application for Judicial Review, and a second motion would do the same thing. Then the volume of work in the Application for Judicial Review. (To be reminded: Ms. Welkoff is a "self-represented" party). It was discussed in detail and noted as to what she could subsequently do in regard to the doctor's CPSO file, along with other assurances as to what the application for judicial review Panel will do in regard to that aspect in the motion.

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[15] Portions of Ms. Welkoff's Responding Motion Record re: HPARB motion, pgs. 1 and 2, Portions of the proceedings below, Tab 4 (viii): **re: HPARB motion**

[16] motion Decision of Nakatsuru, J, Portions of the proceedings below, Tab 4 (viii): **re HPARB motion**

18. Unfortunately, the Divisional Court did not wish to engage during the hearing regarding any of this. Ms. Welkoff attempted to address the doctor's lawyer's statement in her response. She did manage to get the gist of it said (to be noted: along with her concerns regarding the CPSO public register, which she also brought forward in her Notice of Application for Judicial Review and in her application Factum, etc., and as well during the HPARB Review). As well, as evidenced by the fact that the Panel did not engage at the hearing and then also requested the *Caution "*post-hearing"[17] (even though the doctor's CPSO record/caution etc. was to be examined by the Panel before the hearing and/or discussed about during the hearing) to which HPARB responded to the court "the court already has it" [18], further accentuated Ms. Welkoff's concerns about how the court was conducting the judicial review in this case. As well, the one "caution" may not be the only thing relevant in the doctor's CPSO file regarding complaints, decisions, etc. due to the many pages that were "blacked out" in the record provided to Ms. Welkoff. Ms. Welkoff was not "allowed" to have this simply because she could not retain a lawyer. The Honourable Judge presiding over the motion hearing assured Ms. Welkoff that the judges for the Application for Judicial Review hearing will have *all* of the doctor's CPSO file and will examine it thoroughly and that Ms. Welkoff could pursue any arguments she may have even if she chose not to motion for it before the application for judicial review hearing.

19. It should be noted that the HPARB/respondent doctor presented the same pattern of misinformation in regard to many aspects throughout proceedings/pleadings, including the repeated alleging of "the Applicant did not raise issue(s) before the HPARB (or only at the point of the court's involvement). In regard to the above motion proceedings they had attempted it there as well. Ms. Welkoff provided written proof evidence that she did *indeed* bring forward to HPARB issues they had referred to.

20. The Court clearly made a palpable and overriding error in law and an extricable error of law in accepting the outcome of the decision, the remedial agreement. The remedial

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[17] Divisional Court's post-hearing direction

[18] HPARB's email to the court: **"the court already has it" (the caution)**

agreement provides for a remedial education which has no basis. The ICRC themselves confirmed there is **no evidence** in the record to support the random diagnosis, yet that specific baseless diagnosis is what the remedial education is specifically about. As well, as was the pattern, one of Ms. Welkoff's key serious concerns being that it was **NOT a matter of "premature discharge"** was not listened to and avoided. Furthermore, HPARB altering her statement about it in their written decision is highly questionable, and highly questionable in *how specifically* it was altered. Ms. Welkoff submitted this key concern many times, as evidenced, yet **even the court in a judicial review** in a very serious case failed to address it. There were statements in the CPSO decision that Ms. Welkoff stated that "she was not ready for discharge", however that is misleading. Ms. Welkoff never "herself" said anything like that. It would not have even crossed her mind due to what Ms. Welkoff was actually going through at the hands of Dr. Solomon. She was desperately communicating to the other staff at NYGH *about Dr. Solomon's non-treating her, her harmful attitudes and behaviours towards her, stating things during sessions that were not true, etc.* This has nothing to do with a "premature discharge", etc. It was not that Ms. Welkoff "was not *ready for discharge*". All that transpired from Dr. Solomon (such wrongful acts), and Ms. Welkoff being harmed greatly and worse off, and continual consequences due to Dr. Solomon's mental and emotional abuse upon Ms. Welkoff, certainly DOES NOT constitute a "premature discharge". "*Premature"* discharge was not the problem (nor discharge planning) due to the truth about what happened. Ms. Welkoff's central issues and concerns were quite clear and confirms all of this.

21. In regard to the Divisional Court's post-hearing direction[17] requesting particular submissions from the parties (to be noted again: the illegitimacy of the Remedial Agreement education), the respondent doctor made further especially irrational, unreasonable, baseless submissions and questionable submissions, as follows:

(a) 4. It would be inappropriate for this Court to order the publication of Dr. Solomon's RA because: (i) the RHPA does not require publication of RAs; and (ii) publication of the RA was not a remedy open to the Board and is not properly within the scope of this Judicial Review.

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[17] (ibid) Divisional Court's post-hearing direction

Whether the "RHPA" does or does not require publication of RAs, which that in itself could be open to question, does not mean there is not other avenues and/or circumstances to which it would be open to a Court to order publication. Both the Board and the Court must follow any restraints by law which may counter the respondent doctor's submissions.

(b)

> 5. The Court also should not substitute a different outcome in place of the RA because: (i) to do so would unfairly deprive Dr. Solomon of her appeal remedies under the RHPA. Both a complainant and the subject physician are entitled to a Review by the Board of a complaint decision of the Committee.5 If this Court changes the complaint outcome, Dr. Solomon will be deprived of her statutory right to challenge that decision; and (ii) Dr. Solomon has long completed her obligations under the RA. Any change in the complaint outcome will result in her completing remediation twice for the same complaint, which would be unjust.

The laws allow for both the complainant and the physician to a Board Review of a Committee's decision, and then the right of a Court Review of the Board's decision regarding a Committee's decision, which does allow the Court to find that the HPARB's decision regarding the decision of the Committee was unfair, unreasonable and/or unlawful, which of course has to do with the complaint outcome as that is the purpose in allowing for a request for a Board review in the first place.

As far as the respondent doctor's claim that she would be completing remediation twice for the same complaint, the remediation agreement has been from the beginning and continues to be one of the central issues and concerns of Ms. Welkoff, the illegitimacy of it in the first place, and the "long completed" is not so "long" ago completed and irrelevant as it was done within all the timing of the proceedings of this matter/case. The months that went by are due to the time factors involved in CPSO's, HPARB's and the Court's steps; and of course as well as due to strategic purposes of the CPSO and the doctor making sure the RA was done quickly upon the CPSO decision being made on May 9, 2023, and the doctor's signing on May 17th, 2023, all being done unaware to Ms. Welkoff until months later, etc. Directly upon receiving the CPSO decision, Ms. Welkoff submitted a review to HPARB, and then all the following proceedings occurred… to the Divisional Court's decision, to which they are now claiming nothing can be done now because "the doctor has long completed her obligations under the RA"? I respectfully comment: *talk about*

underhanded strategic planning. It is questionable as to why the Divisional Court would accept such irrational arguments. Dr. Solomon had just as much right to request a review by the Board and then a review by the court if the situation were reverse. As far as the respondent's statement that Dr. Solomon would be deprived of her right to challenge the Court's decision is inaccurate. Ms. Welkoff is **challenging the decision of the Divisional Court** in this case as she feels *she* has been deprived of *her* rights to fairness, reasonableness and lawfulness, with statutory, fairness, reasonableness, rule of law and principles of law concerns, and that would have been open to Dr. Solomon as well. The doctor had and has the same rights if she wished to request a Board Review, then proceed to a judicial review, then to pursue leave to appeal. It is Ms. Welkoff submissions that it is *her rights and the public rights* that have been trespassed against in various ways in regard to this case. Hence, the motion for leave to appeal of the decision of the Divisional Court to the Court of Appeal.

(c)

> 8. The Committee was aware of Dr. Solomon's written caution from 16 years earlier, and that it related to a concern that also arose in this case, discharge planning. The Committee explicitly considered these factors and concluded that a RA was the appropriate remedy.[6]

Premature discharge and discharge planning was not the problem and never was a part of Ms. Welkoff's complaint. That was orchestrated by the CPSO, as part of the avoidance of the real issues and concerns.

(d)

> 9. The Committee's decision demonstrates a clear and logical progression in complaint remedies. While written cautions are passive remedial outcomes, RAs are active, requiring self-directed learning and a written report in that regard. RAs are, therefore, higher-level dispositions than written caution.

In regard to the respondent doctor's statement "…clear or logical progression…", there is nothing clear or logical about it. As far as whether cautions or remedial education is the greater of the accountabilities and deterrents for problem doctors (whether written or verbal as a factor is really just playing a game), it has been quite well established that cautions have been and are the greater of the two. What is quite noticeable in the submissions is what was pointed out in *Vavilov* *("Reasons that 'simply repeat statutory language,…)*

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[11] *Vavilov*, ibid, at para. 102

(e)

> 10. Notably, this case is about psychiatry and mental health. The Applicant's complaint was not considered by a randomly composed panel of the Committee; rather, it was considered by a specialized Mental Health Panel, which included three psychiatrists and a "Public Member" appointed by the Provincial Government.

Notably, this case was not about psychiatry and mental health. The Complainant Ms. Welkoff was not a patient of the Committee. This was a Complaint proceeding. This was about an individual submitting a complaint to CPSO about an ex-doctor's misconduct and fraud. To investigate that, whether the Committee are psychiatrists or public or not has absolutely no bearing on what was required to be investigated (other than the possibility of bias coming from fellow doctors/ psychiatrists). They need not be a specialized "mental health panel". What they should have been specialized in was what was required to investigate according to the actual issues and concerns of the complainant, which would be concerns in any department of healthcare, as well as even in other areas beyond healthcare and health records - misconduct and fraud are serious concerns in many areas of society. This was brought forward throughout all the proceedings (i.e. Factum: "one cannot investigate a serious claim of a doctor deliberately writing false information in notes in an individual's personal health records file by using *only* those notes themselves to investigate that serious claim") by Ms. Welkoff, also in the judicial review hearing - however, as the pattern, falling on deaf ears.

(f)

> 11. The Panel was uniquely placed to consider and reflect in its decision the objectives of the RHPA with the PPA amendments, as well as the interests of the profession, the interests of the specialty of psychiatry, and the interests of the public.
> 12. The Panel was aware that the RA would not be publicized on the College's Public Register. It correctly identified in its reasons its mandate "to protect patients and, where possible, to enhance the quality of physicians' care or conduct through education and remediation." The publication of decisions is not necessary to "protect patients", and the legislature did not require by the PPA that all remedial complaint outcomes be publicized.
> 13. As set out in Dr. Solomon's factum, the Board owed deference to the Committee, and this Court, in turn, owes deference to the Board. To the extent the Court is reconsidering the outcome reached by the Committee it, in effect, should observe a double degree of deference.
> 14. Deference is also owed because the RA was a negotiated resolution between the Committee and Dr. Solomon.
> 15. The Committee's decision was reasonable, and appropriately upheld by the Board. It was within the range of reasonable outcomes, addressed the issues from the complaint, and served the public interest.

All of the above repeated assertions can be and has been already legitimately countered. These type of illegitimate assertions have certainly not only been countered by Ms. Welkoff, but it has been countered widespread as well throughout public concern. There is an abundance of cases. However to counter two of these issues yet again, firstly, in reality it is the opposite to "protecting patients" as well as the opposite to "protecting the public/

the interests of the public", and is the opposite to enhancing the quality of physician's care. It is promoting a bad reflection on the CPSO, the profession, and psychiatry, as well as concerns regarding HPARB's role. The CPSO cannot speak for patients and the public. It is the patients, ex-patients, etc., and the public that require listening to and for them to speak in regard to what protects them, etc. Members of the profession, CPSO, HPARB, etc., both those who have and do not have anything to hide, will still have their rights to pursue as well. Secondly, again, "deference" does **not** mean total blind and absolute agreement in respect to anything and everything. To note: (*respectfully phrasing it in a way to get the message clearly across*) what the heck does "deference owed" have anything to do with the RA being a negotiated resolution anyway? and to be noted it was *not even* a "*negotiated resolution".).* The "deference" factor is being widely used inappropriately and abused and certainly not what was the intended meaning of deference. "Deference owed" to that extreme is in essence taking away patients, ex-patients, the public, etc. rights *owed them*.

If the respondent wishes to stress all of the Committees "credentials" as extreme as they have been referred to then it would be required of the respondent(s) that they accept the Committee's conclusion that there is no evidence in regard to what the remedial education entails in the so called remedial "agreement". That conclusion must be then required to be accepted due to the Committee's described "exorbitant expertises". The respondent doctor, or whomever else, cannot alter the facts to what the respondent doctor, or whomever else, prefers the facts to have been, and *then* claim the "expertise etc." submission upon the changed facts. It is perplexing that this has gone on, all the proceedings etc., what Ms. Welkoff has gone through, when that error in law is so obvious and extreme and blatantly clear right from the beginning of receiving the CPSO decision. That in itself is a gross procedural unfairness to Ms. Welkoff.

The court erred in accepting much of the above submissions from the respondent doctor, as well as throughout the proceedings. Deference **does not mean** that courts must show **blind deference**. [19]

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[19] *Vavilov*, paras 73-85, 103,104, 108-114, 125-133

To be noted, Ms. Welkoff submits she had the right to but was not provided with an opportunity to respond to any of these post-hearing submissions, and included them herein.

As far as Ms. Welkoff's submissions[20] in reply to the Divisional Court Panel's direction, Ms. Welkoff submits that her submissions were not addressed sufficiently by the Divisional Court.

PART III - PROPOSED QUESTIONS FOR THE COURT

22. If leave to appeal is granted by this Honourable Court, the moving party proposes that the following questions be answered on appeal:

(i) Did the Divisional Court err in applying the standard of review as solely reasonableness in this case?

ii) Did the Divisional Court err in it's judgment that the HPARB decision was reasonable?

iii) Did the Divisional Court err in any of it's interpretations as to it's role in a judicial review? Did the Court conduct a proper judicial review? Did the Court err in the way the in-person hearing was conducted? Did the Court err in it's acceptance of the respondents' claim that total blind deference should be given HPARB in all respects and all aspects of this case and in turn also the CPSO, in coming to it's decision? Did the Court err in displaying a reasonable apprehension of bias?

(iv) Did the Divisional Court err regarding the remedial agreement?

(v) Did the court err in accepting the respondents' claim that this matter is not a serious matter, and not accepting this as serious in judicial review?

(vi) Did the court err in not understanding and considering the importance of all the general concerns and systemic issues? in how it will continue to effect the present as well as the how it will affect the future? as well as the significant impact and harm on the Applicant?

(vii) Did the court err in not *considering* that this case *may* be one of the rare cases that a court may decide an outcome with its own based on many particular elements and circumstances in this case?

(viii) Did the Court err in not providing adequate and clear reasons of their own in dismissing the application?

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[20] Written submissions of Ms. Welkoff pursuant to the Panel's post-hearing direction

PART IV - ISSUES AND THE LAW

A. The Test for Granting Leave to Appeal to the Court of Appeal is Met

(a) Arguable Questions of Law Exist;

(b) The Proposed Questions for Appeal Engage Issues of Public Import;

(c) The Decision Below has "bearing on the critical issues in litigation";

(d) There is a *real*, reasonable likelihood of bias;

(d) The Decision on the Questions Will Have Significant Impact on the Development of Jurisprudence of Ontario;

(e) The Charter Now Plays an Important Role in Judicial Review Litigation Before the Divisional Court.

B. There is good reason to doubt the correctness of the Decision Below

(a) The Divisional Court Made Errors in Law;

(b) The Divisional Court failed to Conduct a Proper Judicial Review;

(c) The Divisional Court erred in its judgment that the HPARB decision was fair, reasonable and lawful;

(d) The Divisional Court Failed to Provide Adequate Reasons;

(e) The Divisional Court Erred in Principles of Law Matters;

(f) The Division Court Failed to Recognize and Consider Vital Individual Rights, Serious Systemic Issues and Issues of Public Import.

23. The most obvious and foremost **error in law** is the remedial agreement. When a committee/tribunal states there is no evidence to support a particular disposition but then makes that disposition, it is considered unreasonable and an error in law. It demonstrates a lack of reasoning and a failure to consider the evidence properly. ***When a court accepts such a tribunal decision it is an error in law***. A tribunal decision must be reasonable in its outcome, meaning it must be based on a logical chain of reasoning and **justified by the facts and law**. If a tribunal confirms a ICRC decision that states there is no evidence for a conclusion but then reaches that conclusion, it fails to meet this standard of reasonableness. Tribunals are bound by the law and

must apply it correctly. If a tribunal's decision contradicts the law or ignores relevant legal principles, it constitutes an error in law. In this case, the tribunals' decision would be considered an error in law because it is not supported by the evidence and, in effect, the actual evidence presented. When such a decision is subject to judicial review, the higher court must review the tribunal's decision to ensure it is reasonable and lawful. The higher court has a duty to overturn the lower decision if there is unreasonableness or an error in law. This is not just a case of facts alone. It is an extricable error in law as well, as this constitutes a contravention of the rule of law and the principles of law. The *Judicial Review Procedures Act*, R.S.O 1990, Chapter J.1 (*JRPA*) provides **a court has the power to set aside a decision for an error of law, an absence of evidence or where the exercise of the power is unauthorized or invalid.**[21] Section 2 (3)[22] of the *JRPA* provides:

> **Lack of evidence**
> Where the findings of fact of a tribunal made in the exercise of a statutory power of decision are required by any statute or law to be based exclusively on evidence admissible before it and on facts of which it may take notice and there is no such evidence and there are no such facts to support findings of fact made by the tribunal in making a decision in the exercise of such power, the court may set aside the decision on an application for judicial review.

The ICRC explicitly stated/confirmed in multiple places in their written decision that there is no evidence,

> Pg. 5: "We are concerned that the Respondent's notes do not address any real diagnostic issues"
> Pg. 7: "Again, the Committee is concerned, overall… the Respondent's notes do not explore this in any detail"
> Pg. 7: "Again, the Committee wishes to reiterate that **we could see no support in the medical record** as to why that diagnosis was made."

Yet they concluded and instructed a remedial education course of that specific "no evidence"

> "The Committee concludes that the Respondent could benefit from further education to assist her in *gaining a better understanding around the risk factors and management of personality disorders and persistent depressive disorders*, and discharge planning, and a remedial agreement is the appropriate disposition of this case."

as if they confirmed that there *was* evidence/support in the medical records as to why that diagnosis was made and the doctor needs to gain a better understanding around the risk factors

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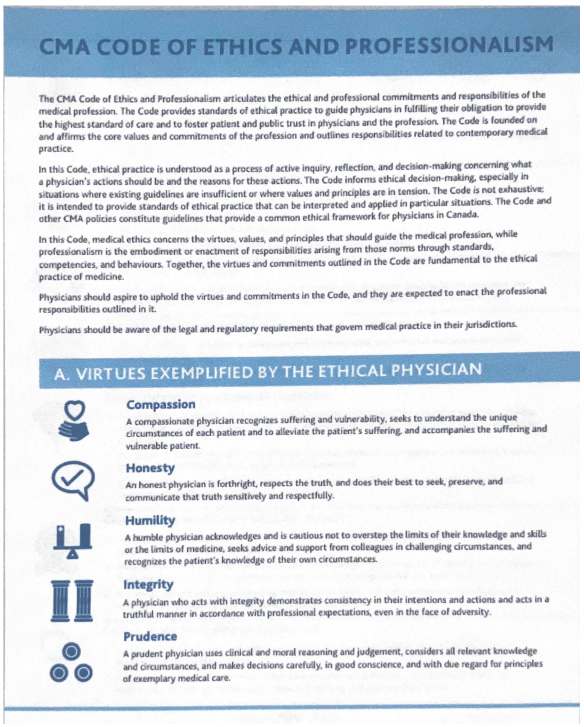
[21] Judicial Review Procedures Act

[22] Judicial Review Procedures Act, ibid, Section 2 (3)

and management of it. In essence, the ICRC did the exact same thing as the doctor. There is no evidence or *legitimate* basis as to why the ICRC would contradict themselves. It is indicative of CPSO/ICRC being left with no other alternative ***in order to lessen the outcome for the doctor*** in a very serious matter/case. Yet, this illegitimate outcome was and is devastating for the moving party. Ms. Welkoff was left out in the cold for months suffering and almost died again due to the doctor's wrongful acts and due to this irresponsibility of the CPSO/ICRC, for the reasons already given in detail many times throughout all the proceedings. Furthermore, even though Ms. Welkoff is not suicidal any longer, she still has pain and suffering due to the trauma effects, due to the fact that she never was appropriately helped, and it is not possible now to ever be helped. One cannot be treated, helped and/or supported if random illegitimate diagnosis are made and serious falsehoods are written in any health records along with the attitude that information from the individual is of no consequence. This is certainly NOT "protecting the public". If this sort of overall thing keeps on occurring with the chain reactions, and it is never dealt with as the systemic issue it is, it is continually dangerous and will harm or kill many more people. Ms. Welkoff is far from the only one this has happened to and will continue to happen to. This is in no way an exaggeration. Ms. Welkoff even witnessed it in regard to others through her ordeals. Those who are unfamiliar need only *unbiasedly* research it.

24. The Divisional Court erred regarding the Canadian Medical Association Code of Ethics and Professionalism (first 2 pages found below, and in Ms. Welkoff's Application Factum) and the misconduct element. It establishes the standards of professional conduct expected of physicians, based on core values. Physicians are <u>expected</u> to be aware of <u>and comply</u> with both legal/ regulatory requirements and the ethical principles of the Code. Provincial and territorial medical

regulatory colleges (like the CPSO) require physicians to practice according to the Code and can take disciplinary action against those who do not meet the standards.[23] CPSO's role is defined by government legislation. [24]



CMA CODE OF ETHICS AND PROFESSIONALISM

The CMA Code of Ethics and Professionalism articulates the ethical and professional commitments and responsibilities of the medical profession. The Code provides standards of ethical practice to guide physicians in fulfilling their obligation to provide the highest standard of care and to foster patient and public trust in physicians and the profession. The Code is founded on and affirms the core values and commitments of the profession and outlines responsibilities related to contemporary medical practice.

In this Code, ethical practice is understood as a process of active inquiry, reflection, and decision-making concerning what a physician's actions should be and the reasons for these actions. The Code informs ethical decision-making, especially in situations where existing guidelines are insufficient or where values and principles are in tension. The Code is not exhaustive; it is intended to provide standards of ethical practice that can be interpreted and applied in particular situations. The Code and other CMA policies constitute guidelines that provide a common ethical framework for physicians in Canada.

In this Code, medical ethics concerns the virtues, values, and principles that should guide the medical profession, while professionalism is the embodiment or enactment of responsibilities arising from those norms through standards, competencies, and behaviours. Together, the virtues and commitments outlined in the Code are fundamental to the ethical practice of medicine.

Physicians should aspire to uphold the virtues and commitments in the Code, and they are expected to enact the professional responsibilities outlined in it.

Physicians should be aware of the legal and regulatory requirements that govern medical practice in their jurisdictions.

A. VIRTUES EXEMPLIFIED BY THE ETHICAL PHYSICIAN

Compassion
A compassionate physician recognizes suffering and vulnerability, seeks to understand the unique circumstances of each patient and to alleviate the patient's suffering, and accompanies the suffering and vulnerable patient.

Honesty
An honest physician is forthright, respects the truth, and does their best to seek, preserve, and communicate that truth sensitively and respectfully.

Humility
A humble physician acknowledges and is cautious not to overstep the limits of their knowledge and skills or the limits of medicine, seeks advice and support from colleagues in challenging circumstances, and recognizes the patient's knowledge of their own circumstances.

Integrity
A physician who acts with integrity demonstrates consistency in their intentions and actions and acts in a truthful manner in accordance with professional expectations, even in the face of adversity.

Prudence
A prudent physician uses clinical and moral reasoning and judgement, considers all relevant knowledge and circumstances, and makes decisions carefully, in good conscience, and with due regard for principles of exemplary medical care.

B. FUNDAMENTAL COMMITMENTS OF THE MEDICAL PROFESSION

Commitment to the well-being of the patient
- Consider first the well-being of the patient; always act to benefit the patient and promote the good of the patient.
- Provide appropriate care and management across the care continuum.
- Take all reasonable steps to prevent or minimize harm to the patient; disclose to the patient if there is a risk of harm or if harm has occurred.
- Recognize the balance of potential benefits and harms associated with any medical act; act to bring about a positive balance of benefits over harms.

Commitment to respect for persons
- Always treat the patient with dignity and respect the equal and intrinsic worth of all persons.
- Always respect the autonomy of the patient.
- Never exploit the patient for personal advantage.
- Never participate in or support practices that violate basic human rights.

Commitment to justice
- Promote the well-being of communities and populations by striving to improve health outcomes and access to care, reduce health inequities and disparities in care, and promote social accountability.

Commitment to professional integrity and competence
- Practise medicine competently, safely, and with integrity; avoid any influence that could undermine your professional integrity.
- Develop and advance your professional knowledge, skills, and competencies through lifelong learning.

Commitment to professional excellence
- Contribute to the development and innovation in medicine through clinical practice, research, teaching, mentorship, leadership, quality improvement, administration, or advocacy on behalf of the profession or the public.
- Participate in establishing and maintaining professional standards and engage in processes that support the institutions involved in the regulation of the profession.
- Cultivate collaborative and respectful relationships with physicians and learners in all areas of medicine and with other colleagues and partners in health care.

Commitment to self-care and peer support
- Value personal health and wellness and strive to model self-care; take steps to optimize meaningful co-existence of professional and personal life.
- Value and promote a training and practice culture that supports and responds effectively to colleagues in need and empowers them to seek help to improve their physical, mental, and social well-being.
- Recognize and act on the understanding that physician health and wellness needs to be addressed at individual and systemic levels, in a model of shared responsibility.

Commitment to inquiry and reflection
- Value and foster individual and collective inquiry and reflection to further medical science and to facilitate ethical decision-making.
- Foster curiosity and exploration to further your personal and professional development and insight; be open to new knowledge, technologies, ways of practising, and learning from others.

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See section C of Code: Professional Responsibilities

In this Judicial Review case, the doctor breached her duty of care and went against the Code in every way listed. The ICRC even acknowledges the breaching of the code by confirming the doctor's failure of the elements written in the code. CPSO/ICRC are breaching their role.

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[23] CPSO - Essentials of Medical Professionalism

[24] CPSO's Role is defined by government legislation

25. The respondent Dr. Solomon's and HPARB's response to Ms. Welkoff's detailed central issues and concerns of the doctor breaching the code and committed misconduct was simply "the ICRC did not find that the doctor breached the code or committed misconduct". Nowhere did the ICRC state that "they did not find that the doctor breached the code or committed misconduct". Rather, the evidence provides the proof that she did and to an extreme degree, and the ICRC acknowledged the breaching of the code and committed misconduct *by way of their writings*, by *confirming the doctor's failure of listed elements written in the code*. Despite the above, the Divisional Court just simply accepted and copied such an insufficient statement of "the ICRC did not find that the doctor breached the code or committed misconduct" from the respondent doctor/HPARB.

26. The ***Medicine Act, 1991, S.O. 1991, c. 30,*** Ontario Regulation 856/93, PROFESSIONAL MISCONDUCT[25] provides in Section 1(1) The following are acts of professional misconduct for the purposes of clause 51 (1) (c) of the Health Professions Procedural Code:

2. Failing to maintain the standard of practice of the profession
3. Abusing a patient verbally or physically
7. Discontinuing professional services that are needed
13. Making a misrepresentation respecting a remedy, treatment or device
16. Falsifying a record relating to the member's practice
18. Signing or issuing, in the member's professional capacity, a document that the member knows or ought to know is false or misleading
27. Contravening the Act, the Regulated Health Professions Act, 1991 or the regulations under either of those Acts
33. An act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional
34. conduct unbecoming a physician or physician assistant

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[25] *Medicine Act*

27. Non-production of the "HPARB" record for review is unlawful. In Ontario, the *Statutory Powers Procedure Act*, Section 20 (d) provides that a tribunal shall compile a record of any proceeding in which a hearing has been held which shall include:

> **"all** documentary evidence filed with the tribunal, subject to any limitation expressly imposed by any other Act on the extent to or the purposes for which any such documents may be used in evidence in any proceeding"[26]

Despite this section in the Act, the HPARB failed to file all documentary evidence. They did not file with the Court the HPARB proceedings record along with the CPSO record of investigation. This issue was brought forward by Ms. Welkoff to all concerned, and when ignored she added a list of the documentation to her pleadings for the judicial review application. Ms. Welkoff provided evidence that HPARB removed certain documentation, by adding the relevant documentation herself from her own record keeping file. The HPARB and respondent doctor Solomon claimed the documentation was just administrative documents, but they were not just that (administrative was only a small percentage in the HPARB proceedings record). The documentation also included documentation relevant to procedural fairness and other factor issues and had nothing to do with the administrative side of the documentation. If HPARB decisions are to be reviewed for procedural fairness then the only way to judge that fairly is with the HPARB proceedings record, as well as the CPSO record. The fact that the respondents used some of the so-called "only administrative" documentation as evidence in "their" pleadings but then made submission that the relevant documentation to the case that Ms. Welkoff brought forward should not be considered (which was NOT just administration, but procedural) holds a double-standard. The Divisional Court erred by upholding a double standard and by referencing submissions from respondents that included so-called "only administrative" documentations, but disregarded Ms. Welkoff's. The Act states: all documentary evidence. The HPARB crossed over their jurisdiction when arbitrarily selecting documentation filed with the Court. To note, the motion judge's decision reference is made there.

28. Section 21.1 of the *Statutory Powers Procedure Act* provides that a tribunal may at any time correct a typographical error, error of calculation or similar error made in its decision. [27] If the

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[26] *Statutory Powers Procedure Act*, Section 20 (d)
[27] *Statutory Powers Procedure Act*, Section 21(1)

tribunal *did not* deliberately alter Ms. Welkoff's written statement (that she also presented orally) *that it was not about pre-mature discharge*… and Ms. Welkoff brought the misrepresentation of her statement to HPARB's attention, as well as to the Court's attention requesting correction, then why was her concern and request ignored? The alteration of the statement certainly made a complete difference in the meaning of the real statement, and since this was a main element in the case (the topic of "pre-mature discharge"), Ms. Welkoff questions why this was ignored and why it was not considered as relevant, this being unfair to Ms. Welkoff. If this *was just* a typo-graphing mistake then why ignore this issue? If it was *not just* a typo-graphing error, than this is highly unethical. Ms. Welkoff's statement:

> "As far as premature discharge, that was also not the problem. If things were handled appropriately based on the facts and truths and based on proper attitudes and behaviours by the doctor etc. then discharge could have occurred most likely even sooner."

was altered to:

> "The premature discharge was not the problem. It was the awful, harmful discharge occurrence that was totally unacceptable."

Ms. Welkoff's true statement should be respected and not altered. This requires correcting.

29. The HPARB's statements on page 5 of their decision formed an unreasonable analysis.

The Board stated at paragraph 18:

> "The Board cannot recommend or require the Committee to do things outside its jurisdiction, such as make a finding of misconduct or incompetence against the member or require the referral of specified allegations to the Ontario Physicians and Surgeons Discipline Committee that would not, if proved, constitute either professional misconduct or incompetence."

<u>However</u>, the Board <u>may</u> do one or more of the following:

(a) confirm all or part of the Committee's decision;
(b) make recommendations to the Committee;
(c) require the Committee to exercise any of its powers other than to request a Registrar' investigation.

Whether the *Board can or cannot make findings* of misconduct or incompetence is not meaning that they cannot do what the Act states they *do have jurisdiction to do*, as in (a), (b) and (c) above. Regarding the statement that *the Board* "cannot require the referral of specified allegations to the Ontario Physicians and Surgeons Discipline Committee that would not, if proved, constitute either professional misconduct or incompetence, that statement is ambiguous. If the specified allegations would, if proved, constitute either professional misconduct or incompetence, the Board can *require* the referral of specified allegations to the OPSDC? OBVIOUSLY, in this case, the allegations, if proved, would indeed constitute professional misconduct and/or incompetence, and worse. Obviously in this particular case, not only the allegations (which are based on the truth to which Ms. Welkoff swore to under oath), but also the ICRC's own confirmation of findings that constitute professional misconduct and or incompetence, as provided in various Acts, Codes, etc., also common sense, and certainly **would**, if proved, **constitute professional misconduct or incompetence)**. Furthermore, in this case there is *plenty of evidence* to substantiate such misconduct (and incompetence). Furthermore, the law is clear that the HPARB bears the burden of demonstrating that the claims/allegations *could not "possibly" succeed*. As this Court has clearly expressed, it is NOT necessary for the applicant to demonstrate that he/she *will in fact succeed* (even though the facts and evidence and Ms. Welkoff's submissions in this matter certainly demonstrate the *strong possibility* it would succeed).[28] HPARB cannot reverse the burden of proof as it did, and make that bare assertion in paragraph 18. That bare assertion does not apply to this particular case at all. This is another example of how **the Divisional Court erred** in finding the HPARB decision and reasons were reasonable, fair and lawful.

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[28] ***Addison Chevrolet*** *Buick GMC Ltd. v. General Motors of Canada Ltd.*, 2016, ONCA 324

30. The Divisional Court erred in the way the in-person hearing was conducted.

(a) - Ms. Welkoff was directed by the court (by writing and verbally) that it was mandatory that the hearing will be conducted through Case Center, that it was mandatory not just in remote but in-person hearings as well. Although very difficult, Ms. Welkoff prepared her case for the hearing accordingly. Ms. Welkoff spent a great deal of time, resources, and effort, as well as costs, in order to research and learn regarding Case Center, and all the learning requirements involved in Case Center in regard to a hearing. She researched what would be expected of her during a judicial review hearing, and how Case Center is designed to streamline and centralize the hearing process and is the designated platform for the hearing process; that it provides an organized platform for <u>all</u> evidence allowing for easy navigation, reviewing, and engagement, during the hearing. Ms. Welkoff also was informed and directed regarding the Court's internet service, what was required of the parties to access it, which she spent time in learning, applying for, and prepared for, including while sitting outside the court room awaiting the start of the hearing. Upon entering the court room, the staff made further direction regarding case center and the parties' iPads, and went around to each party to ensure everything was set up and working accordingly, all giving the impression again of assuring the process to Ms. Welkoff. However the judges deviated from this established procedure.

- After the judge's first few opening statements (which included that he did not expect to be there that morning, as well as that the panel in part read materials filed), upon the time to begin her opening statements Ms. Welkoff, since she was told she could ask certain questions at the beginning of the hearing, she asked whether during her opening statement she should be utilizing case center to direct the judges to certain relevant portions of documents or whether that should come afterwards during the other elements of the hearing. From what she researched, it did not appear that it would be appropriate during her opening statement (as well when standing at the platform it was not feasible). The lead judge did not answer but simply stated "Why don't you just begin by telling the judges what it is you expect from us today". Right from the starting point, this created confusion and uncertainty for Ms. Welkoff. It was also concerning. What did they think

Ms. Welkoff was there for today? As well, the judge completely disregarded Ms. Welkoff's question, which also created confusion and uncertainty for Ms. Welkoff.

- During the opening statements from the lead judge, the judge included a quick mention to Case Center, that if a document is referred to then please give the case center page number, not any other page number). This again gave the impression of assurance to Ms. Welkoff that the established procedure for which she was to present her case would occur. After the two out of three respondents presented their shorter than expected opening statements which only included one or two page numbers (which the respondent asked if the judge wanted) given to the judge who jotted it down (and perhaps checked on it's location). There was no engagement other than that. In Ms. Welkoff's short response to the respondents opening statements (short, as the judge said not "to repeat" anything), she attempted to engage the judges into case center where she had uploaded an Index and needed to go, however the judges did not respond. The judges showed no interest in engaging. She figured she would get the chance later during questions etc.

- However, even though a whole half-day was allotted, to Ms. Welkoff's surprise, after Ms. Welkoff's short response to the respondents opening statements, the judges abruptly ended the hearing, stating that judgment is reserved, thank you and goodbye. It was very concerning to Ms. Welkoff. Ms. Welkoff was unfairly disadvantaged when the judges did not utilize the system in the way expected. Ms. Welkoff felt that her carefully, hard laboured, and great time consuming prepared materials for a case center hearing were not being given the attention they deserved, potentially impacting the judge's understanding of her case.

(b) In the respondent doctor's factum it was stated "she" would require 30 minutes to present her argument, but the lawyer, not the doctor herself as intimated (she was referred to in the factum *in that different way* only that *one* time) altered that at the hearing, stating only 10 minutes (or even less) is required, and essentially only repeated statements from decisions and submissions. This suggests the respondent "did not have to" defend their position robustly or to provide a sufficient "judicial review" argument. This also deprived Ms. Welkoff of the chance to rebut the respondent's case in a full and fair manner. The *exact* same thing occurred with the other respondent HPARB who in essence just "repeated statutory language…" (reference to *Vavilov).*

(c) There was the lack of judicial questioning. Ms. Welkoff started with an "opening" argument with the expecting of a back-and-forth with the judges afterwards. Rather, the judge simply stated "Well, you stated not more than 45 minutes and it was exactly 45 minutes." That was concerning, but Ms. Welkoff kept in mind that after the respondents opening statements, there would be that questioning as well as the use of Case Center in the way she prepared for. The judges did not ask questions of the parties which is a critical part of a hearing to clarify points and assess evidence. This denied Ms. Welkoff the opportunity for the court to engage with her case or to be tested on her arguments. This was problematic because Ms. Welkoff was expecting an opportunity to present her case, including providing her opening statement and then respond to the judges' questions. Without questions, Ms. Welkoff's prepared arguments were incomplete as she was preparing for an interactive process. Furthermore, why were not the respondents tested.

31. The Divisional Court failed to provide adequate reasons. It is more than apparent that the Divisional Court reasons were just the CPSO and HPARB decisions and submissions over again. The court did not provide a standard *judicial review* in this case, and that is reflected in the reasons for decision. Their superscript references indicate as well that it all came from the lower decisions. The *court's reasons* are vague, unclear and insufficient, with some irrelevant notations in regard to conclusions. There are some inaccuracies as to what was submitted by Ms. Welkoff. It is quite apparent upon reading the Court's reasons (and upon the other factors as noted throughout this Factum) that in making their judgment the court failed to properly examine, consider and rely upon the actual evidence (the Record) that the HPARB had before them, and that the Court failed to properly examine, consider and rely upon the Applicant's evidence, submissions, pleadings, authorities, etc. (including substantiating evidence) that was filed and available to the judges, as has been further detailed in the Notice of Motion for Leave to Appeal herein. [29]

32. The failure of the *Divisional Court* to provide adequate reasons is an error of law in and of itself.[30] It exemplifies Ms. Welkoff's concerns that the Court failed to conduct a proper standard

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[29] Notice of Motion for Leave to Appeal to the Court of Appeal, pg. 5, para. 3

[30] *Dulku. v. Dulku*, 2017 ONSC 840, at paras. 28, 32

of judicial review in this case, as also reflected during the hearing. This error of law is not only unfair to Ms. Welkoff but is also a matter of public importance to the administration of justice itself. Courts who abdicate their fundamental responsibility to provide adequate reasons ought to be subject, as a matter of course and principle, to rigorous appellate review.

33. Throughout the entire application for judicial review proceedings in this matter there was the strategy used by the respondents of red herrings and ipse dixit.

34. The "let's avoid the facts and evidence, the actual case at hand, just talk bare assertions, "repeat statutory languages…" whether the inferences can truly be applied to the individual case or not, submit that a judicial review is a "re-trial", demand complete blind deference, etc." - undermines what a judicial review is truly about.

35. The fact that in every other case of judicial review (in example [31, 32]) that Ms. Welkoff researched it is quite evident that the record and actual evidence was properly examined, considered, and relied upon by the courts, brings into question the attitude given towards this case.

36. Having a "remedial agreement" outcome does not automatically mean it was appropriate, legitimate, justifiable, that justice was served, or that it was not harmful.

37. Without proper judicial reviews of cases, it leaves wide open opportunities of taking advantage by lower decision makers.

The test for granting leave to appeal has been satisfied.

39. As detailed in the Notice of Motion for Leave to Appeal herein, and throughout Ms. Welkoff's pleadings, this case involves matters of serious public concern, serious systemic issues, etc., and warrants the granting for leave to appeal to the Court of Appeal. [33]

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[31] *Montour v. Health Professions Appeal and Review Board*, 2019 ONSC 3451

[32] *Bahniuk v. Canada (Attorney General)*, 2016, FAC 127

[33] *West Whitby Landowners Group Inc. v. Elexicon Energy Inc. and Ontario Energy Board*, 2024, ONCA 910

40. In this case, there are several questions of law and the principles of law. The questions of law and the principles of law are of great importance not only to the individual in this case, but to the public, the development of the law, and the administration of justice[33]; There are legitimate questions regarding issues of procedural fairness, and reasonableness - again procedural fairness and reasonableness in all proceedings is important to all the public, and certain procedural fairness and reasonableness issues can constitute errors of law as well; There are legitimate questions as to whether there was a failure of a proper judicial review of an HPARB decision in turn of a CPSO decision; there are many facts, substantial grounds and cogent evidence throughout the proceedings to support a finding of a reasonable apprehension of bias[34,35,36,37]; There are questions that the Divisional Court erred by breaching the principle of procedural fairness in the way they conducted the in-person hearing. It is crucial for the judges to adhere to the established protocols to ensure fairness; There are many facts, substantial grounds and cogent evidence throughout the proceedings to support findings of misapprehending of evidence, failing to consider all evidence, and rendering a decision without sufficient reasons; [37,38,39,40,41,42,43,44] There are issues that lead to questions in regard to how social status, wrongful stigma, marginalization, can wrongfully play a role; on many particular facts in this case, there are legitimate questions of bias; There are serious systemic issues. This case holds legitimate serious import for the public in relation to systemic issues, in past, present and future cases. The decisions in cases as this one involve the interests of many people and many people will be affected, present and future. The test is met in many ways that this case warrants inclusion for leave to appeal to the Court of Appeal.

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33 *West Whitby*, ibid
34 *Yukon Francophone School Board, Education Area #23 v. Yukon (Attorney General)*, 2015 SCC 25
35 *Stuart Budd & Sons Limited v. IFA Vehicle Distributors ULC*, 2016 ONCA 60, para. [53] [89]
36 *Baker v. Canada (Minister of Citizenship and Immigration*, 1999 SCC 699
37 *Sorger v. Bank of Nova Scotia*, 1998 ON CA 3715;
38 *Vavilov* ibid, para. 126; paras. 127-130
39 *University of Alberta v. Chang* 2012
40 *1352194 Ontario Inc. v. Vince*, 2021 ONSC;
41 *Shahcheraghi v. Divangahi* (2024, BCSC)
42 *Escape 101 Ventures Inc. v. March of Dimes Canada*, 2022 BCCA 29
43 *Sparks v. Director of the Ontario Disability Support Program*, 2023 ONSC;
44 *First of Five Incorporated v. Recipe Unlimited Corporation* (Divisional Court, 2024)

41. Ms. Welkoff reserves her right to file a reply factum within 10 days after the filing of respondents' motion records/factums pursuant to the Rules of Civil Procedure.

PART V - ORDER REQUESTED

42. Ms. Welkoff respectfully requests that this Honourable Court grant leave to appeal the order of the Divisional Court dated August 8, 2025.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 22nd day of October, 2025.

_____

Elaine Welkoff
Moving Party/Proposed Appellant

TAB 4

- RELEVANT PORTIONS OF THE PROCEEDINGS BELOW

(i) Patient Experience Report/Emails/Voicemails Complaint

Patient Experience Report

(note: the 6 encounters with Dr. Solomon (yellow highlights) - the red side notations are the dates)

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Toronto Superior Court of Justice / Cour supérieure de justice

Court File No./N° du dossier du greffe : DC-24-00000525-00JR

A63

EXHIBIT "B" - **COMPLAINT**

My experience at NYGH

(Attempted suicide)

The Emergency service at North York General Hospital was a mixture of good and bad. Mostly bad. When asked, I told the first attendant there why I was there, and he told me to sit and wait for my name to be called. After a while I was put in a separate small room and sat and waited. A number of doctors, psychiatrists, students and other staff, came in and out, a number of times, asked me questions etc. I remember asking please to die. I talked some about M.A.I.D. Etc. They were all of mixed opinions as to what to do with me, admit or not, etc. I remember a woman opening the door at one point, came in, sat for about 15 seconds, introduced herself as a psychiatrist, cannot remember her name, asked a few questions, quickly got up and said I wouldn't be admitted as she opened and headed out the door closing it almost entirely behind her, she was cold and abrupt, with a look on her face of contempt or something like that, I just do not know how to describe it. I just said quietly "ok" and "that's it for me" "that's ok" (meaning it seriously). I was thinking to myself that I would just have to bear the way I was trying and just get it done. I think she must have noticed that I did not panic or really cared what she said, because at that point after all that had happened, and then hours there of being "analyzed" being used as a training "object", being talked about as if I was not even right there hearing it, after being doubted because of "notes, medical records, phone discussions, or wherever they were getting it" from Oshawa, and from all of their differing opinions, I just said what I said and let her leave without a fuss. I was exhausted. She then opened the door back up with a bit of a different look on her face and said "I will let Dr. T' decide" (medical doctor). (He was the doctor that spoke with me the most). (He was the one that told me that "he wasn't going to kill me", after my attempts at discussing M.A.I.D. with him).
During all that, as stated, some more nonsense went on about the Oshawa Hospital experience, and me trying to get the truth straight with them. It was quite futile for me to be trying, but I tried.

Another psychiatrist, other doctors, other staff, in and out, hours, then it was decided I would be admitted. I spent most of the night in the chair in that room. A volunteer came in and offered me food, but I did not want any. Drinks she brought. I did not want. Tried to not, but I was so extremely thirsty. I gave in. I drank.

Upon admittance to the Mental Health Unit, I found the nurses to be professional and kind (unlike the Oshawa hospital experience). I even mentioned that to some of the nurses upon them asking some questions to me. They also had some sort of structure going on with the nursing/patient interactions etc.

Monday, * May 21, 2022, early a.m.

The first encounter with Dr. Leigh Solomon psychiatrist after admission to Mental Health Unit was her standing at doorway of hospital room and she asked a few questions as follows: "How old are you"? Are you married? Do you have children? I answered: "63" "No" and "No". That was it. She said she would prescribe drugs. Prozak. She left. I thought hmmm and shook my head to myself, but there was severe internal pain going on and her appearance and words meant nothing. I was also exhausted. My mind. My body. Emotionally in the constant horror.

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The few "sessions" with Dr. Solomon were very hurtful.

I was there I think about ten days.

Tues., May 22, 2022 *

First Session: The very first thing she said to me at that session was that I should not have been admitted, that I should not be there just because I am lonely. I knew that there were a lot of people who profiled single women that way, especially once they get to upper ages, but I had to think even in this situation? A psychiatrist? In a hospital? I guess I was surprised but not shocked. All I could answer was "what makes you think that about me?" She replied "because that is what I do". It was so absurd I just reacted with shoving it aside, shaking my head and started to say "No..." and I proceeded to try and say some things about what really was going on with me. With each start of each of a few sentences she cut me off after only a few words saying "I don't want to hear about that". She said she would be discharging me. She got up, and I was left sitting there trying to comprehend how a doctor could behave like that. She said, as she was finishing off and leaving, that she prescribed Prozac. I told her "wait, when you said the other day you would be prescribing, I wanted to talk to you about drugs, because certain drugs…" she cut me off, said she wasn't about to discuss drugs with me. (I had discussed with a doctor during the Emergency assessments, when he asked me if I was willing to take drugs, that particular drugs that were prescribed to me decades ago (I had one past episode of depression decades ago, but had been ok for decades since after finally proper help was given back then) gave me awful nightmares and actually depressed me further. The doctor in Emergency then told me not to worry about it because there are other drug choices, and newer drugs, and that will be discussed with assigned psychiatrist). Dr. Solomon then told me that there is no help there. I said "there is no help? no programs, group sessions, therapies of any type, here? She said no. I didn't understand that, because I remember differently from decades ago at other hospital. Etc. She told me she would be discharging me next session.

During the medication rounds, I refused the Prozak as I was remembering that it sounded like the drug that was given to me before. It was also a decades old drug. Probably that drug was the one given before. I already was having very severe flashbacks and a lot of emotional pain and nightmares about it and I did not want a drug that even heightened that. That just could not happen. I told the nurses each time, asking what is the drug, that no I won't take that drug, and that I needed to discuss drugs with doctor. I told them also that it is not all about drugs. Also, drugs alone won't do a thing without other absolutely necessary types of help. I took the other medications offered (vitamins and help with anxiety/sleep).

During the next day or two I just stayed in room. One day though I did start to venture out of room and noticed a group session going on in a room. I was invited in. Therapy Art session. I had always liked doing art. I joined in. Sobbed. Broke down. Couldn't help it. Things going on inside. Etc. (Cannot write in detail everything). I went to a second session.

I was asking myself why did psychiatrist say "nothing" going on there?

Wed., May 23, 2022 *

Next session Dr. Solomon said "discharge". I told her that I did find some sessions and groups going on and that I joined. She did not even look up when I said that. She ignored it completely. She was writing something and then said to me without looking at me "apparently you are not liking it here or the nurses, just like at Lakeridge". I was shocked, because it was the exact opposite, and I had even mentioned to the nurses that I was grateful that they were very professional and nice there and that it was like night and day the difference in the nursing staff. What was she talking about? I started to try and say that to Dr. Solomon, I said "What???? in disbelief that she said that. I said "no, as a matter of fact… but barely got those 6 words out before she cut me off, all done without even looking at me, while she was writing. What could she possibly be writing when nothing was going on in that session other than that? I realized that

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there was something seriously wrong going on with this doctor. It was very disturbing. What she said was completely untrue. Very disturbing. She said “discharge” and said “there is no outpatient follow up offered”, that she will get a staff member (I believe social worker) to give me contact information of Oshawa Hospital Outpatient etc. I told her that after the awful experiences at Oshawa and the Durham area, I will not go near there again. I also told her that if I go anywhere (as I was still wanting to commit suicide, but she never once talked about anything but no help and discharge) I was moving back westward right away, North York, Markham, Richmond Hill, Thornhill, etc. area, where I had lived all my life before, so “if anything” it will need to be somewhere around there. She ignored me, just got up, and left. I went back to room. I did not understand at all. What was going on?

I had to wonder why, if she just kept discussing discharge, and nothing else, then why just not discharge me that very day or before or next day? What the heck was she doing? There was no discharge that day or the following.

During the days there, a few of the nurses said to me things like “Elaine, you are so understanding”. “Elaine, you are so patient” “tolerant“. “Oh, thank you Elaine….” about various things and for various reasons), etc. (again, unlike me to say things like that about myself, however it is now required, as no one spoke up for me when it was desperately needed). I won’t give details unless required.

A newer room mate and I chatted at times. She is a very nice person. She told me about a group and person and introduced me into it. It was conducted at the hospital. I went with her. I wanted to go again.

Thurs May 24/22 *

4

Next and I believe the last session with Dr. Solomon. I started to talk before she started this time. I wanted to tell her that the sessions I was going to just might be helpful to me, might give me perhaps a chance at figuring out how I could survive, but before I could get even a sentence out, she cut me off yet again and proceeded with her same type of talk. She again ignored me entirely. Not even looking up from her writing at me. She said some more hurtful ridiculous things, and I really could not take it anymore. I started shaking. I said politely to her in a hopeless tone “Dr. Solomon, I do not mean to be rude, I just need to go back to my room” and I got up and walked out, unsteady, but I made it, and I went back to the hospital room. When I said that to her and got up, I cannot find the right words to describe the look on her face.

I did go to a second group session that the room mate introduced me to.

I told room mate that Dr Solomon was very hurtful and it was very disturbing to be in a room alone with her, that it was very hurtful and that I felt that something was very wrong with that doctor. I had to open up to someone about it. I would not ever go back into a shut door room with that doctor again. I did not trust her or what she might say or do next.

It was like fighting two battles. Trying to attempt seeing if maybe, just maybe I could be helped somehow, getting a tinge of hopefulness, then she would sabotage it. Why?

Fri. May 25/25 *

5

On the Friday I told the nice room mate that I was not going to a closed room with Dr. Solomon again. I stayed in my hospital room that morning. Chatted at times with the room mate. When Dr. Solomon came to the door of the hospital room, said “ok as discussed discharge, come with me to an office please”, I told her that I was too exhausted to go to a room with her, please just speak to me there. (I did see other doctors, psychiatrists doing it that way. I think “privacy thing” is not necessary if patient oks it. (Not that privacy is respected even when patient wants it anyway). She saw the room mate was sitting in there. She said no that she would prefer to be private. I said I am not worried about that, it is ok with me to just speak here. She again looked

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at the room mate. She said come out in the hall then. I got up and went out as far as in front of the doorway and she tried to lead me further down the hall. I did not move. She still stood further away to talk. I then proceeded to discuss what I had tried to discuss during the last session. She tried to cut me off again but this time I kept talking anyway. She was surprised and tried again to cut me off, I kept talking. Over her trying to cut me off. I told her about the session, and told her that more session(s) with that person (group) might help me. She kept trying to talk over me as I talked, but I kept talking. I said weekends there are no sessions but Monday or and Tuesday please, for the session(s), then ok discharge. Maybe I might be helped some. There might be a chance. I won't ask for further days there after that. The look on her face showed anger, she hesitated, but she kept glancing at the open door of the room and knew that our discussion was probably heard by others. It was obvious that it was the only reason she okayed it. She said Tuesday morning you will be discharged. She said that it was her last day there on Monday (don't know if she meant final last day, or last day for a while) so Tuesday morning another doctor will have to do the discharge. I said ok and thanked her. At least there was one more afternoon session I could go to on the Monday.

A bit later, while I was alone in the room on the bed resting, and wondering if somehow there was a chance, etc., crying though, not that hopeful of it, but I was trying, even though still how could I go on living with the horror always going on in me, she startled me at the door of the room coming back with a strange look on her face, and abruptly said "forget it! I changed my mind, discharge Monday morning" and she left.

All hope was lost in me.

I thought about it the rest of the day. No point in staying weekend then. What for? No sessions going on over weekend. I would be just waiting over the weekend for discharge on Monday morning. Pacing halls and lying on bed with what was going on inside every minute. What would be the point of staying the weekend if Monday morning was discharge anyway. The sessions were in the afternoon.

A couple of nurses came in during the day, I believe college training with a mentor. I was very distraught. The mentor nurse talked with me a bit. Told me to be my own advocate if I had none. They were both very professional, compassionate, and wise. Even the student at such an early stage. The student nurse asked if she could take my hand, I said yes, and she actually held my hand for a while. I cried.

The nice room mate was leaving later that afternoon. We went to the second group session.

I was changed to a different hospital room, they would not at first, the room mate just before she left was dismayed that they were refusing to give me a different room and that the nurse was "accusing", and after she spoke with the nurse, the nurse was all of a sudden co-operative in changing the room. (I cannot be bothered describing here or detailing, it was just too ridiculous). I am tired.

I noticed a change in "a few" of the nurses towards me during the last couple of days. Also being isolated from them. Before there was no problem. Don't feel like describing or detailing unless necessary. I am a very observant person and I am of the belief with sound reasoning that Dr. Solomon had something to do with that.

A new nurse however that I saw for the first time (that night), she introduced herself, would be night nurse etc. She was asking and talking. Very professional and kind. I did not see her again after that night. The questions led to her finding out a bit about my situation, and then led to me opening up and telling her about what was going on, about doctor, etc. I remembered being told

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"I had to be my own advocate". She brought in some paper and told me that I could write several things and she recommended it, and that she would put in file. I did, not very well, but I wrote a few statements. She then asked if suicidal plan, the usual questions, and I answered with the same answers as whenever I was asked in the hospitals. Practically every day. Yes, I want to die, etc. I did not see her again after that night.

As no point in staying the weekend, Saturday, I asked to leave. Needed to just finally get the deed done.

I told that day's nurse can I be discharged that day, being discharged on Monday morning anyway, and she said o k, weekend doctor might discharge.

Weekend doctor next day on Sunday that new psychiatrist for me starting on Monday, even though I was seeing him to leave that day. I was surprised. So didn't leave as planned.

Monday morning, in the rec room, different looking morning pill etc.? Asked what it was. Nurse (never met her before) said it is a "happy" pill. I could not believe what I heard. I asked if it was a new prescription or what. Or was it Prozac again? Just different looking? She talked baby talk to me again. Saying "it is "happy" pill. You want to be "happy" right? Take the "happy" pill then." OMG. I said who prescribed this? She said your doctor. I said which doctor, by name please. She really had no idea. I was not about to take whatever it was on the basis it was presented to me. OMG. What the heck? Never did find out about that. Never had the chance. Ridiculous.

Later that morning, the Monday, the absolute unacceptable happened.

Mon. May 28/22 *

I was having the coffee from the breakfast tray in the hospital room. I had only nibbled a bit of food while there. I was expecting that day to be introduced to the new psychiatrist and I was thinking about things, very depressed, tired, wondering what if anything would come out of it, b cause I was having difficulty trusting it (with legitimate cause and reasons obviously) but was going to give it a try anyway, and in walked Dr. Leigh Solomon. I was surprised to see her. I just sat there quiet. She came in flipping the written note that was taped to the front of the door of the hospital room and demanded to know why I wrote such a note and put it there. She was livid. I had nothing to do with the note. It was the other patient's note that was put on the door. Written on it was "please keep this door shut". It was there for many days even before I was moved to that room. Nurses and patients saw it while walking in the halls. Dr. Solomon was obviously ready to blast me about it, I just said quietly "it's not mine". She looked confused, looked around, saw the other patient in the bed. She said nothing else. No apology or anything.

She then said "discharge this morning as said on Friday so get things ready to leave". I was confused. All I could say was very quietly and politely ask "oh…uh…Dr. Solomon…you don't know what happened over the weekend then?". I was totally confused and totally exhausted and my mind was getting foggy. I felt as if I was going to faint. She was annoyed at my question and just said "I talked a bit with the nurses" "why?!" and I just had no idea what to say next. She apparently, I assumed, was not aware. I just sighed as I felt very exhausted and simply said "…I don't know Dr. Solomon…it doesn't matter I guess". What more could I say to her, really, at that point. She left the room.

I was confused. I sat there for a few minutes, my mind spinning with all the mind games subjected on me, on top of my emotional, mental and physical state. Exhausted. Really just confirmation after confirmation that my time to die was overdue.

I did not feel like finishing the coffee. I just sat for a few minutes. I did not know what was going on or what if anything I should do about it. All I could do was go out of the room and ask the nurse, she said she would come in to the room in a few minutes, I said o k.

Electronically filed / Déposé par voie électronique : 16-Apr-2025
Toronto Superior Court of Justice / Cour supérieure de justice

Court File No./N° du dossier du greffe : DC-24-00000525-00JR

She came in and I asked her what was going on? She did not know what I meant. She was my nurse for that day yet she had no idea what was going on or not going on with the patient. I was really at a point of total exhaustion, and very disturbed by these hospitals, that all I could muster was a few sentences to inform her some, about weekend, was going to leave because going to be discharged anyway on Monday morning, it was recommended to me to stay, I was told by a doctor that on Monday I would get a different doctor, that Dr. Solomon had just came in and told me to get things ready to leave, I asked her what was going on PLEASE? She said she did not know. She would try to find out and get back to me. She came back about 15 minutes later (guessing at the time interval), and said that I was correct and that a Dr. so and so would be starting with me that day. I was not discharged. Dr. Solomon was incorrect. I did not know really what to make as to what was going on. I just said o k, and tried to finish drinking the coffee on the breakfast tray but could not.

Just sat there wondering about all I was going through with the “help” that is advertised out there, the “there is help out there”, the statements said “you’re not alone”, the “reach out”, etc. and was realizing more and more how far from the truth that was. All this going on and at the very same time my pain inside that was just unbearable. What the ?

I just sat there and was not even able to get up and do anything. Thought about how I did not know what the new doctor would be like now anyway, with all that was going on, would things just get even worse? Would she have an open minded approach and fresh look upon me or would she be influenced by Dr. Solomon et al anyway. I decided to risk it even after all the mind games. The nurse said stay, you are not discharged, new doctor. Let’s see then.

Then all of a sudden the same nurse came in with a paper bag with a handle with some belongings of mine and told me to get dressed and any other belongings put in the bag and that I was to leave. I simply said “what?” quietly, exhaustingly, my mind almost blown. She just repeated that when I asked her what happened? I did not ask aggressively or angrily, just so very confused, exhausted, and going down, going down, going down, down, down. She would not answer me or even look me in the eye. I was so very tired. Yet something in me, I guess my moral fibre, realized how wrong this was, that I was receiving a disrespect at such a high level, and it was not just towards me or about me, and I could not bear it any more, so I said quietly to her “you do not think that I should at least be told what happened? What happened on the weekend did not happen? You did not tell me just about ten minutes ago that everything was cleared up and yes I would be staying and a new doctor would try to help me, that a different psychiatrist was starting today? Now you are telling me to leave? Why? What is going on? She would not say a word. She kept looking down, not at me. At that point, the thoughts going on in my head, I thought to myself all that had happened since coming to these hospitals, the worst all that happened that led me to suicide, then how they interfered with my suicide just for me to be put through what I was put through and still being put through, and later that day would be the end of me, for some reason I felt that I deserved the least bit of respect coming my way by at least being told why the contradictions and the mind games and what had happened, before I left. I deserved at least that much. Therefore I simply quietly said to her “I will leave, but I request to know what happened”. She left the room. My thoughts, I could not do anything more about it, and it is o k, I want to die anyway, and what has been going on just makes it more obvious that is the thing to do, but I am requesting being told what happened and why. I will leave, but I am not leaving until someone at least tells me what happened because this is too bizarre and I deserve at least that amount of respect. I believe I have at least that right.

I wanted at least enough respect coming my way to explain to me what happened and why before I left. I was hopeless and ready to leave on weekend, was convinced to wait and was seen by some other doctor, who told me another doctor on Monday, I spend a weekend there for no point whatsoever apparently, as now I am just told to leave that morning without any explanation, after being told contradictory things several times even that very morning. Are those what the rights of a patient in a hospital are?

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Within only about a few minutes after that, a large group of people stormed into the room. I was sitting in the corner with a breakfast tray and cart in front of me with about 12-15 people surrounding me. I was totally in shock and disbelief. I did not know what was going on. I had never experienced or even seen in person such a thing take place towards anyone, let alone me, let alone in a hospital room. There were huge security guards with what I thought I saw as even weapons. There were people with different types of clothing on and whom I had no idea who they all were. At that point I felt the urgent need to defend myself from this attack of course, I was shaking and very upset, but I did not get physically or verbally abusive towards them. All of them, every single one of them, except the nurse who had her eyes down, were glaring at me with such hate. I of course asked “What is going on?”. There was a number of security guards, I think at least four, if not more, and one of them said to put shoes on, they were going to take me out. I just could not believe what was happening. I said “I don’t understand what is going on” I tried to explain to them that on the weekend… and such, they just cut me off, then all I could muster to say then was “I said that I was leaving but that at least I deserved to know what happened and why, what was going on.” One of them said Dr. Solomon discharged you, leave. I then just looked around at their faces, I just could not believe their behavior. I said to the nurse “you know what happened during the last hour, what you said to me, what is going on? She would not answer, just looked down. I asked her again. She said “Dr. Solomon discharged you”. I said “what about all that was said to me? You know. You said that Dr. so and so was indeed starting today to try to help me. She did not know what to say. She said something that made no sense “Dr. so and so is on holidays”. That just made things more confusing. I said “what? what are you talking about? One of the security guards said “it is not the nurse’s fault”. I was not being nasty to the nurse I was pleading with her to speak up. I said to the security guard “she can speak can’t she?” Have some integrity? I looked at her, not with hate, but with confusion and distress, she saw it, her face actually showed that she felt bad about herself, she looked away. I then got so disturbed by all the bullies in that room, in their behaviour towards a patient, a patient who never showed an ounce of aggression, physical or verbal, who showed overly patience, and yet they were being bullies and aggressive and abusive towards the patient. I thought to myself, o k, I want to die anyway, and there is not even a bit of hope that will change, but the knowing that hospital staff are capable of doing such a thing, I thought of others, and I told them that they should be ashamed of themselves, and that they were doing something very wrong. I knew that was it and that I would just have to for sure end my life that day. In a way I was relieved knowing that. With the pain that led me to suicide, and with the “help” I had been subjected to, it was desperately needed, no choice.

In the middle of all this, the other patient in the room had to be put through witnessing all this. All of a sudden she spoke up saying that it was not right what they were doing, that she had heard some of my conversations with nurses, and that I was going to commit suicide. I was surprised because through the days I was in that room she was just quiet and sleeping (I assumed) in the bed. She even went to her doctor whom she heard outside in the hall and pleaded with him, and he said “I know, but I have no power to do anything about it.” I had heard that in the midst of what was happening to me. Every person that were committing this crime (yes, I consider it a crime) and could not care less about anything but forcing me out. I said again I would leave, but please first I believe I should be entitled to an explanation about what happened. One of the security guards said to get shoes on and come with them that second or they would handcuff me and carry me out.

What was the point anymore. What ever was the point from since it was my time to die.

I was forced out, without any explanation as to why told something different on weekend, etc. They did not provide me even with that respect to let me know what in the world went on and why.

Nurse did not speak up. No nurses did. A few were nearby.

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Some of the patients were in the hallway watching as I was taken out. One asked “Why?”. One called out “Bye Elaine”. “Thank you Elaine”. I looked back at her and I wanted to say to her “please take care”, but I could only give her a smile back. I felt I would start sobbing otherwise.

I said one thing to the security guards about four to six I think, I cannot remember exactly, in the elevator with me. (at one point the elevators door opened, and people were waiting for the elevator to get in, and they looked at us, the guards said they would have to wait for the next elevator. The people looked at me). I said to the security guards, “do you know that without even knowing what happened, you are doing this to a suicidal person”. They just shrugged. One of them said “well you can go out the door then just turn around and come in again”. More of the mind games. OMG. I said “What?????” He said “you can just check in at Emergency again”. I said “and you don’t know what will happen? Why would I do that? It is obvious what would happen.” He said you no you may get different doctors who will do something different. I said “you actually believe that?”. He said yes.

They took me through the Emergency, with people who were sitting and standing waiting to be seen staring at us and at me, wondering. They brought me to the door. It was snowing and very cold outside. They opened the door and forced me out with no coat, in hospital garment. I was totally lost in my mind, in my emotions, the horror going on inside and that I could not live with which led me to suicide. I did want to die. I knew I just could not go to the apartment. It was suicide for sure and that I did not mind, I wanted it, the horror, it was already too excruciating, I just couldn’t have it going on inside even worse, and the only choices I had to get it done, would it be accomplished? oh God, please. I don’t know what else could have brought me to go back in, even though I knew what they would do.

Security told to me to just re-enter emergency. I was foolish enough to do it. I fell for it. So naive. Still trusting after all of it like a complete fool.

I waited in line. Went up to the check in staff. They did the asking me why I was there, etc. She got confused when she was checking me in and noticed that I was just discharged. I said nothing. She said to have a seat and to wait until my name was called. The usual. I was surprised. She said to sit where she could see me. I sat for a while. I was holding back tears. Shaking from the cold spell thrown outside without proper clothing. Still in disbelief. Yet the most predominant going on inside was what led me to suicide. A few others sitting and waiting looked at me and they could tell I was holding back tears. Sometimes a few tears came out, but I was trying to hold them back. One woman was watching, she spoke with the man beside her a few times and they both looked at me several times. I did not want to disturb anyone waiting there. I moved to another seat, but without it being obvious to them.

After about perhaps 15 minutes, someone in a staff uniform, nursing perhaps, was walking through the aisle and from there with her hand signalled me to come to her. When I saw the direction she was leading me in had an area called a colour zone, I stupidly and naively thought she was bringing me there. However, as I was turning towards that on the way while walking, she abruptly turned to some exit doors and opened the doors and said to “get out”. Again, I had been a fool.

All I could say to her was quietly “do you even know what happened?” She looked at me with puzzlement as to the question (which is unbelievable). I asked again “Do you know even what all has happened?” She simply said no and that she didn’t care and that Dr. Solomon is a good doctor! I said “you do not know anything at all about what all happened and yet you make judgment on me and do something like this to me”. She had told a suicidal person to go back to apartment, do not go to a different hospital, do not go anywhere else for help, go ahead and kill herself dumping her out on the curb like a bag of trash. The entire group of people that stormed into a patient’s hospital room participated in that. How? Why?

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I was honestly going to kill myself. There was no way that if I went back to the apartment that I would not have killed myself. No doubt. Absolutely no doubt about it. No doubt at all. The way it would have to be done, as I knew what that would entail, was not inviting at all, awful, but dying certainly was inviting and overdue.

If not for the awful staff member's (nurse? don't know) (I definitely would recognize her) (won't ever forget that face) comment (she inadvertently actually stopped my death that day, while promoting it) by telling me to not go anywhere for help. She did not know me or what all that happened. Yet the hate in her face towards me and what she was capable of doing. Again a moral fibre inside me could not accept that. Did she think herself as a God? I looked at the street while shaking with cold, I got my bearings as to where I was and what was nearby, and I thought of Mount Pleasant Cemetery where some family are, then down the road from there my past grandmother and aunt's house, and up the road from there Sunnybrook Hospital. I got a cab and said Sunnybrook Hospital. If I could die in a split second by a snap of a finger or twitch of a nose I would have chosen that.

I was literally thrown out on the curb, as if I was garbage, in the cold weather with just hospital clothes. Told to walk in the cold without even a jacket or coat in hospital garment. Told those other things. They all did that without even caring about knowing the truth. And the few THAT DID not having enough integrity or caring to speak up.

Please. It doesn't matter about me. My time to die is overdue now. However, Dr. Leigh Solomon, is very dangerous as a psychiatrist, and apparently very powerful to be able to influence others to behave in the ways they did, and someone worth saving and may be able to be saved in the future, may not be saved.

There were other things that happened there important to write about, but how long this is.

I am exhausted.

Cannot even proofread or check over. The writing I know is not written well, too tired, but it is truthful.

Elaine Welkoff

Patient Experience Report/Emails/Voicemails Complaint

Emails

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From: L W <lwhon4@gmail.com>
Sent: October 31, 2022 3:24 AM
To: Yuk-Ying Tam
Cc: Tanya Tazbaz
Subject: Re: College of Physicians

Hello,

The following also forms part of the Complaint:

- Dr. Solomon inappropriately told me that I should never have been admitted to North York General Hospital, March 2022, "just because I was lonely", that being the very first thing she said to me in the first session meeting. She knew nothing about me. She knew nothing about why my suicide (interrupted).
- Dr. Solomon inappropriately profiled me.
- Dr. Solomon refused to talk about anything else but discharge throughout, and did not want to hear anything from me. She "did not want to hear about it".
- Dr. Solomon told me there was no help there for me. Yet Dr. Solomon did not set up any discharge right away, she waited for days.
- Dr. Solomon refused to offer me outpatient supports from North York General Hospital when requested by me when she was just talking about discharge and saying no help was there for me.
- Dr. Solomon made statements during sessions that were untrue.
- Dr. Solomon instructed Social Worker to only provide Oshawa Durham Region resources to me, as told to me by him when I was desperately over and over again trying to tell him that I require it in the North York/Toronto area, requesting NYGH outpatient, as I will be in that area. I would not go to Oshawa (for many reasons), and I don't have the means to travel from North York/Toronto area to Durham back and forth. The Social Worker said he had to follow Dr. Solomon's instructions. He said I would have to talk to her. I told him I did, I tried, whenever she spoke of trying to force Oshawa, but she would not listen. This meeting with him happened sometime before the day of the devastating storming swarming by many staff and removal episode at NYGH.
- After I was planning to leave on the weekend (for the reasons specified in my patient experience written report) but was told over weekend that a different doctor would be starting with me on the Monday, so I stayed, Dr. Solomon forcefully had me removed from hospital via hospital security and other personnel.
- Dr. Solomon put me through that storming swarming and shocking forcible removal from the hospital when there was no need. I had said to the nurse (after the nurse came back in and contradicted what she herself had just confirmed approximately a few minutes before (she had said I was to stay and start with different doctor) and I asked what happened and the nurse would not reply) that I will leave, ok, but I at least have the right to know what happened first, why the contractions etc. I had given up, but that little bit of respect given to me was all I was asking. Apparently, giving a patient at least that little bit of respect and rights was not believed in by those involved.

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- Dr. Solomon had me forcibly thrown out in that fashion in a very serious active suicidal ideation state.
- I was thrown out in that fashion into a snowing cold day in hospital garment.
- Dr. Solomon provided falsehoods in her discharge summary.
- Dr. Solomon provided baseless diagnosis and diagnostic wordings and opinions, other than the depression diagnosis. No study was done. How could there be? Dr. Solomon's written conclusions coincided with her written inaccuracies.
- Dr. Solomon wrote falsehoods in the health records file. I have no choice but to be honestly blunt and use the correct word falsehoods and not just inaccuracies due to the extremity of the degree, type and method used for the utter falsehoods in her notes.
- The degree and type of Dr. Solomon's falsehoods in the health records, upon reading them this past week (Oct. 24th week) heightened my active suicidal ideation state.
- Dr. Solomon's falsehoods affect subsequent care.

Sent from my iPhone

On Oct 26, 2022, at 9:08 AM, Yuk-Ying Tam <ytam@cpso.on.ca> wrote:

Thank you.

Please forward your additional complaints via e-mail.

Regards

***Yuk-Ying Tam** (She/her)*
Investigator | Investigations and Resolutions
The College of Physicians and Surgeons of Ontario
80 College Street | Toronto, Ontario | M5G 2E2
T: 416-967-2600 | 1-800-268-7096 ext. 347
F: 416-967-2616 | www.cpso.on.ca

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From: L W <lwhon4@gmail.com>
Sent: October 25, 2022 3:58 PM
To: Yuk-Ying Tam <ytam@cpso.on.ca>

Patient Experience Report/Emails/Voicemails Complaint
VOICEMAILS

The audio voicemails complaint being a huge part of the complaint from Ms. Welkoff were kept by CPSO, was part of the record, and available, but wrongfully deliberately avoided by CPSO *without just cause or reasoning*.

Upon receipt of the doctor's response, even though Ms. Welkoff knew the doctor would have to lie and cover up, the extent of the lies was beyond imaginable. It was overwhelming. This was concurrent with her being in a state of going through the horrible trauma effects and attempts of suicide (which some can be proven with evidence). She delivered 13 voicemails to Ms. Tam on January 27, 2023, directly upon receiving the written response. Due to the fact that the whole thing was an entire fiction novel, Ms. Welkoff did not know where to begin. She could not just state it is all fiction. The voicemails may sound unusual, but in reality, when all circumstances are known, it is completely understandable that this was a response to such a deliberate fraud novel and Ms. Welkoff's attempt to communicate the extent of the lies, so that it was well understood the extent of Dr. Solomon's fraud and corruption. The only way was to go through the response line by line. She started by trying to write it out, but due to the extent as stated, that would have taken a volume of pages etc. For many reasons, which should be obvious, it just was not possible. To be noted: the emotional effect that it would have on anyone, ESPECIALLY in Ms. Welkoff's already suffering state. Hence, the voicemails. (Afterwards, she sent a quick email to Ms. Tam apologizing for many voicemails, but that she had no choice whatsoever.) Ms. Welkoff made it clear as well that this was a huge part of the Complaint and that it was confirmed to her that the Complaint could be extended right up to the hearing. That night Ms. Welkoff during the night with the trauma flashbacks even worse, and then along with going through her mind the inflictions from Dr. Solomon and consequences with all her lies, zero sleep, could not stand it anymore, knew there was no hope that this unbearable pain and suffering would ever stop, she again tried to overdose. She got very ill.

The voicemails and the high relevancy of sending them was virtually just swept under the rug.

It was stated untruthfully that certain things were not brought to the attention to HPARB. Yet they all were, through the Patient Experience Report/Emails/Voicemails Complaint, etc.

(ii) Submission letter of Ms. Welkoff to HPARB

ie électronique : 16-Apr-2025
Cour supérieure de justice

Court File No./N° du dossier du greff

:tronique : 16-Apr-2025
supérieure de justice

Court File No./N° du dossier du greffe : DC-2

EXHIBIT "G"

WRITTEN SUBMISSIONS

From: L W lwhon4@gmail.com
Subject: 23-CRV-0496 - Welkoff and Solomon
Date: Jul 9, 2024 at 8:43:27 AM
To: hbs.cmt3@ontario.ca

Attention: Sofiea Choudhary

Review scheduled for Tuesday July 9, 2024.

Submissions from Elaine Welkoff

If I may, I would like to make a beginning statement. This is a very serious matter and should be taken as such, and because it is I will be completely frank and direct. There should be and will be appropriate politeness but without hesitation to tell it as it was and is, and unafraid to tell it as it was and is. It is far too serious and important a matter to do otherwise.

In regard to the two assessments that the Board will be dealing with, my submissions are as follows:

1) Was the investigation adequate?

I submit that the investigation was not adequate on the following grounds:

a) There were no interviews conducted. There were a number of people that could have been interviewed and with my permission (I assume privacy rights) that could have been done in regard to certain aspects.

The first staff worker at the College that called me after my complaint was submitted provided information about some of the process which included her stating that interviews can be conducted as well.

I as the Complainant was not even interviewed in any of the investigations. The communications with me were the phone calls from the initial staff member from the College in which she wanted to: know my intent; discuss with me about some of the process; get my contact information details; summarize the complaint. The case investigator advised that she read my complaint, advised about the required authorization from me regarding permission about the records, and updated me as to the progress of the matter upon my requests.

It appeared that there was supposed to be some sort of investigative procedures during the process even before the case is presented to the committee. If there was anything going on other than the above-noted work I was not made aware of it. I do not know of anything going on investigative wise during all that time.

b) It appears that my 13 page patient experience report/complaint was not even read by the committee, or if read was not given the importance it should have had and instead was made to be quite obscure in the investigation. There was/is no legitimate reason why my written experience should not have been used as the vital, credible, and important information it was. I was the one who lived the experience, and the experience involved was what led to the complaint in the first place of course.

c) The health records should not be the only source for investigation options. It was, though, a blessing that the health records do hold a lot of accuracies and truth written by other healthcare staff despite the harmful in many serious ways falsehoods written by the Respondent etc. and despite some omissions of important and relevant information by some and a few inaccuracies by some. A blessing because apparently that is not always the case with hospital records. I am very appreciative that a lot of the NYGH healthcare staff did record information accurately, truthfully, and professionally.

d) The investigation did not go into all the complaints brought forward by the complainant and some of the most important ones.

I submit that the quality of the work done into the investigation was lacking. It is

understandable that it cannot be perfect or intense or too time consuming, however it was lacking apparently in even adequacy because of the fact that some of the very seriously important issues and complaints were not addressed as warranted and also because of the remedial agreement that makes no sense.

2) Was the decision of the Health College Committee reasonable?

This is where it gets very confusing.

The Decision and Reasons document:

In the body of the Analysis portion they do make some concerns known and some of their concerns are reasonable. Yet there are some concerns which hold some unreasonableness. Also there was the need for other concerns, very serious concerns, that were and are quite clearly required but were not noted at all or not noted strongly enough.

The Respondent blatantly lied many times in her Responses. I am using the word lies because there is no other way that they can be or should be described. This is not a game we are playing. It is serious and deadly serious. I can certainly attest to that.

An example of a complete lie is as follows:

The Respondent wrote that "she did not tell the Complainant that she should not have been admitted "just because she was lonely."" This is a pure lie. I was not referring to some impression I got from her and then described the impression using my own words. These were "her" words, her exact words, it is a quotation of her words that she "literally said" to me. Those words were totally unexpected and

quite a shock to me. I REPEAT (and I swear to this and I am willing to take a lie detector test): the first session with me her first words to me were and I QUOTE "You should never have been admitted, you should not be here just because you are lonely". OMG. I could go on further about how that statement is unacceptably an ignorant and false profiling, especially because of the true reasons I ended up at hospital. The way she went on in her Response trying to cover what she said is highly disturbing… "does not question… one of many factors… would not presume to call anyone lonely… recalls mentioning issue as a means to demonstrate empathy to multiple stressors…" because it is all fiction. She showed zero empathy about anything. Why then when I reacted with such shock and right away asked why did she think that about me did she state: "because that is what I do" and why then when I said "No, a lot of… " attempting to try at least to start to tell what was really going on did she cut me off and state disrespectfully and cruelly "I don't want to hear about that"? That is a direct quote. Empathetic?????? The way she so skilfully made up such a completely phoney story is very disturbing.

Also disturbing is there are plenty more lies in her responses. She did not suggest NYGH as an option for follow up. I requested it, literally begged (this was of course before the terrible thing that group of people did upon "discharge" morning), she refused it, over and over, she knew this, yet she lied about it. She wanted to send me back where it would be highly detrimental to me and it was just an impossibility for me AND SHE KNEW IT and why. I even explained it to her, yet she should have been able to figure that out especially given that she is a psychiatrist. As per her pattern, she just completely ignored me, and could not have cared less about what was beneficial to me or detrimental to me. Then she describes in the records as "rejecting 'help'".

How is it possible that she could have the nerve to state "that she felt that the complainant met the discharge criteria after the last encounter on March 28th, 2022, given what the one-minute encounter entailed and given what all her sessions entailed? how could she have the nerve to state that the complainant had

Submission letter of Ms. Welkoff to HPARB continued, pgs. 3-4

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chronic passive suicide ideation or state that the complainant repeatedly denied having suicidal intent including on the day of discharge? Both those statements are unfounded and untrue. How could she have any impression or come to any conclusion at all without participating in what even comes close to any type of a proper doctor patient relationship? She refused to listen to anything I had to say. She also knew in reality virtually nothing about me or my life.

The list of falsehoods the Respondent stated could carry on herein but I believe I have provided enough examples herein for others to understand my point and any further information can be found elsewhere also.

It is all just too absurd and I for the life of me cannot understand how all this was allowed somehow to go on.

I implore to whomever it may concern that my patient experience report be read and taken very seriously. There is no reason on earth why what I wrote would be written unless it was my experience and the truth, and that it was required to be told.

There is certainly enough basis on which to rely that this matter is not a matter of remedial education being of benefit to a doctor. Especially when the remedial education topics do not even apply.

I appreciate that the committee had some concerns and questioned some things about what the Respondent did or didn't do or say. However I am very concerned that just noting some concerns will not accomplish what should be accomplished. As well most definitely the disposition, the remedial education, will definitely not accomplish what should be accomplished. It makes no sense at all as it does not correspond with the case, or even what was confirmed as some concerns by the Committee. Also, it does not even address at all the very serious issues and complaints. They do not address the actual serious problems with the doctor and

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the dangers.

Even though the committee notes that the relationship between the parties was not optimal and that in their view the Respondent bears responsibility for much of this, I submit that all of the above and other information demonstrates that not optimal is minimizing the problems and situation.

I submit that all of the above demonstrates that the disposition decision is not reasonable.

Firstly, any "opinions" or "diagnosis" of Dr. Solomon obviously have no basis. Therefore to give the doctor remedial education about some random disorders or illnesses has nothing to do with myself or this case. Besides, the doctor has been a psychiatrist for many years already, and one would assume no doubt has read text books and whatever writings already and etc. There is no reason to believe that any "remedial education" of this type currently is of any use or point to it. I believe she would not take any remedial education seriously anyway. Her pattern of attitudes and behaviours reflect that. Her attitudes and behaviours towards patients are dangerous. She has also demonstrated serious dishonesty and phoniness. She has even disrespected this process and the Committee by lying to them in this case. She has no concern or respect for the truth. She has a pattern of being unconcerned for the patients. I certainly experienced that.

Secondly, as far as premature discharge, that was also not the problem. If things were handled appropriately based on the facts and truths and based on proper attitudes and behaviours by the doctor etc. then discharge could have occurred most likely even sooner. As to the matter at hand, the extremely awful and harmful "discharge" occurrence was totally unacceptable. That has not even been addressed by the Committee. That should be taken very seriously. Something like that should never happen to anyone, let alone a person who had experienced recent very serious trauma, was at a point of determined to die, attempted suicide

Submission letter of Ms. Welkoff to HPARB continued, pgs. 5-6

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typo correction: exasperate to exacerbate

just days before but was interrupted, and was intent on passing away. That is not chronic suicidal nor chronic passive suicidal ideation nor passive suicidal ideation. It was current due to the same recent trauma. That type of hospital experiences surely were not going to resolve the suicide intent but only exasperate it. To inflict further harm on a vulnerable patient from a psychiatrist, which psychiatrist has attitude, personality and behavioural problems, during a ten day stay at a hospital and ending it with a terrible discharge experience like that on a suicidal patient is of course something that is totally unacceptable. That should not ever have happened and should never happen again to anyone.

To have a remedial agreement according to inaccuracies and falsehoods is not accomplishing a resolution to what happened and the serious matters at issue. It also remains unfairly damaging to me. It is also libelous. Also, it leaves the unjust harm that was inflicted on me not given a possible "remedy" to ensure it does not happen to future patients. That leaves others with a greater possibility and even likelihood of something similar or even worse happening to them. Please care about that.

It would be productive and beneficial to all concerned if a decision and the remedy or actions decided upon is based on all the facts and what the obvious problems were and are.

To give a recommendation and disposition of remedial education based on as if her opinions and diagnosis were correct is not consistent with the facts at all, just encourages more of the same, not consistent to concerns noted, nor with what happened, so it does not accomplish what is necessary to be accomplished, and is also unjustly harmful to the complainant. I went through enough. It certainly also is not productive in "improving" the services by this doctor or healthcare overall.

Finally, I will stress even further that we need to care about other patients she will

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come in contact with. If CPSO truly cares about the health and well-being of patients, an appropriate remedy or a stronger disposition order would be the appropriate resolution, and hopefully that will be considered as something seriously influential to the doctor - that she needs to change her ways. It really could mean the difference between life or death for any patients that will be assigned to her. I cannot stress that strongly enough. Please take this very seriously. She has had very many complaints submitted against her. It has been and continues to be a very serious pattern in her, and it must be taken as seriously as it is. At what cost is continual protecting the doctor just because she is a doctor worth it? Protect the patients. They do not deserve those type of attitudes and harm, especially when it can be deadly to the patients.

The actual disposed "remedy" is where the strongest unreasonableness is. It does not even apply to me, this case, or even to the committee's concerns. It also just adds to further unjust harm done to me. It allows other patients to be more vulnerable to harm.

Conclusion

I am not interested in punishment to the doctor/respondent, even though an appropriate punishment based on what actually happened would be justifiable. I was never interested in cash compensation as that would not help with or solve the serious issues involved or change what I went through or the harm done. What is important is truth. What is important is accountability based on the truth. What is important is the truth about what actually took place and why.

Only based on the facts can any remedy or action disposed be of any use, any good use. There can be no improvements if they are not based on what needs to be improved upon. Common sense dictates then that the improvements would not be able to happen. The problems would just be being ignored and virtually just

Submission letter of Ms. Welkoff to HPARB continued, pgs. 7-8

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swept under the rug without the appropriate remedies or actions being disposed.

Also, inappropriate remedies/actions result in just further harm and wrongful doings to an ex-patient. It also interferes with healings.

It is apparent that the Respondent's attitude has never changed.

Of very high importance are the future patients. Appropriate remedies and decision dispositions will allow a start to a way of preventing or at least lessening this sort of thing from happening to others and I can say with positivity will lessen pain and suffering, lessen lives destroyed, and even save some lives.

Is that not what the college of Ontario doctors wants?

Elaine Welkoff

Sent from my iPhone

Submission letter of Ms. Welkoff to HPARB continued, pg. 9

(iii) Notice of Application for Judicial Review

A1

Court File No. DC-24-00000525-00JR

ONTARIO
SUPERIOR COURT OF JUSTICE
(Divisional Court)

BETWEEN:

ELAINE WELKOFF

Applicant

- and -

HEALTH PROFESSIONS APPEAL AND REVIEW BOARD,
COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO, and
DR. LEIGH SOLOMON

Respondents

NOTICE OF APPLICATION TO DIVISIONAL COURT FOR JUDICIAL REVIEW

TO THE RESPONDENTS

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following pages.

THIS APPLICATION for judicial review will come on for a hearing before the Divisional Court on a date to be fixed by the registrar by the method of hearing requested by the applicant, unless the court orders otherwise. The applicant requests that this application be heard (choose one of the following)

In person

X By telephone conference

By video conference

at the following location

(Courthouse address for in person hearing or telephone conference or video conference details, such as a dial-in number, access code, video link, etc., if applicable)

on ..... (day), ... (date), at ..... (time).

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the office of the Divisional Court, and you or your lawyer must appear at the hearing.

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IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in additional to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the office of the Divisional Court within thirty days after service on you of the applicant's application record, or at least four days before the hearing, whichever is earlier.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN TO IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS APPLICATION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for hearing or terminated by any means within five years after the notice of application was filed with the court, unless otherwise ordered by the court.

Date September 9, 2024

Issued by Jessa-Marie Clegg
Digitally signed by Jessa-Marie Clegg
Date: 2024.09.09 13:59:59 -04'00'
Registrar

Address of court office: Osgoode Hall, 130 Queen St. W.
Toronto, Ontario M5H 2N5

TO: Health Professions Appeal and Review Board
151 Bloor Street West, 9th Floor
Toronto, Ontario M5S 1S4
Email Address: hbs@ontario.ca; hbs.cmt3@ontario.ca; hparb@ontario.ca

AND TO: College of Physicians and Surgeons of Ontario
80 College Street
Toronto, Ontario M5G 2E2
Email Address: ir@cpso.on.ca
Phone Number: 416-268-7096; 800-268-7096

AND TO: Eric Pellegrino
Counsel for the Respondent Dr. Leigh Solomon
McCarthy & Trault
Associate
5300-66 Wellington St. W.
Toronto, Ontario M5K 1E6
Email Address: epellegrino@mccarthy.ca

AND TO: Attorney General of Ontario
Crown Law Office - Civil
720 Bay Street, 8th Floor
Toronto, Ontario M7A 2S9
Email Address: attorneygeneral@ontario.ca

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APPLICATION

This is an application for judicial review pursuant to section 2 of the Judicial Review Procedure Act, R.S.O. 1990, c. J. 1, as amended (the "JRPA") in respect of the decision of the Health Professions Appeal and Review Board (the "Board") and in respect of the decision of the Inquiries, Complaints and Reports Committee (the Committee) in regard to the complaint brought by the Applicant concerning the highly unprofessional behaviour, highly fraudulent acts and the seriously harmful and deadly misconduct of the Respondent Dr. Leigh Solomon.

The Applicant challenges the decision of the Board on the basis that there has been a breach of procedural fairness; the decision was unreasonable; there are constitutional questions; there are questions of law/and errors in law; it infringes on the Applicant's rights according to the Canadian Charter of Rights and Freedoms (the "Charter") and the Canadian Human Rights Act; it condones infringed upon patients rights; and any other basis appropriate.

The Applicant also herein challenges the decision of the Committee due to the fact that the Board did not exercise its due diligence and obligations in reviewing the Committee's decision. The Committee's investigation was inadequate and the decision was unreasonable.

THE APPLICANT MAKES APPLICATION FOR and seeks relief as follows:

1. An order in the nature of *certiorari* quashing the decision of the Board;

2. In the alternative, an order in the nature of *certiorari* quashing both the decision of the Board and the decision of the Committee;

3. The Applicant respectfully asks for an order by the Court issuing their own decision order and avoid sending it back to the Tribunal for a new hearing given many circumstances, and given that all routes including the routes of committees and tribunals have been exhausted other than the Honourable Courts.

4. A declaration that the decisions are unreasonable, disproportionate, arbitrary, and also a capricious exercise of the Respondents' statutory powers and/or legislative authority;

5. An order in the nature of *certiorari* to quash the decision of the Board on the basis that it is in serious violations of the rules of procedural fairness;

6. A declaration under the Charter that the Applicant's rights have been infringed upon or denied in a manner not in accordance with the principles of fundamental justice;

7. A declaration under the JRPA that the decision of the Board is contrary to the standards and objectives and their mandate as is outlined and is therefore invalid;.

8. An order in the nature of mandamus that the Board adheres to the transparency need and requirement regarding proceedings and cases and to lift the confidentiality order. Only in a narrow range of circumstances would it be appropriate to keep an entire file from public view. There are no such circumstances in this matter;

9. An order that the *miswriting* in the published version of the case be addressed and corrected by the Board;

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10. An order that the CPSO report decisions on its website in the public register and under the physicians' public profile pursuant to our rights to disclosure, freedoms of information, and the right to be informed and this case also should be included;

11. If required and/or if necessary, and in accordance with 2020, c. 11, schedule 10, s. 2, an order allowing for an extension of time prescribed for the service and filing of the here application;

12. If required, and in accordance with 2020, c. 11, Schedule. 10, 2, an order allowing that the prescribed time which is the standard of one year for service and filing of the application record etc. be respected given legitimate circumstances, with the understanding of intention for the perfection of required materials being accomplished much sooner, or in the alternative if required and/or if necessary, an order extending any adjusted or amended short time limit that may have been imposed;

13. The Applicant requests costs; and/or in any event of the cause, that no costs be against the Applicant; and

14. Such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE APPLICATION ARE:

The very gravely serious complaints that are quite predominant and clear in my 13 page Complaint, in my voicemails, in my phone conversations, in the Record, et al etc., were from the beginning and through the investigations and reviews process "watered down" or obscured. Through the process the most important information and the evidence in the Record selectively was either made obscure, completely ignored, some communications were not properly documented or even documented, and miswriting occurred, which inappropriately and wrongly implied that a lesser degree of wrongful behaviours and acts were inflicted on the Applicant than what really occurred.

The Board excluded relevant as well as probative evidence. The Board failed to examine in a non-bias and/or non-partial and/or non-arbitrary way all the evidence that was included while reviewing and making their decision.

The Board minimized the inexcusable acts (i.e. a doctor refusing to treat a patient; a doctor writing a falsehood story in their notes in an individual's health records, a respondent doctor writing falsehoods in responses), etc. The Board, by violating procedural fairness and erring in laws etc., made light the dangers and consequences by confirming the Committee's decision who did the same thing. The Board came to an exceedingly unreasonable decision.

The Board was wrong to agree with the Committee's decision of not interviewing certain people which the applicant at the beginning of the process informed them about and informed them as to the legitimate reasoning as to relevancy.

The Board erred by finding privileges apply in circumstances where it was contrary to even their own rules, or prohibited by laws, etc.

The Board just arbitrarily stating that there was procedural fairness and/or by listing vague certain steps done without disclosing what actually was done, said or written in those steps is not equivalent to evidence of procedural fairness.

The Board and the Committee were wrong in either succeeding or attempting to at times to arbitrarily omit certain of the Applicant's rights in the processes.

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There were conflicts of interest, i.e. the panel and the lawyer for the Respondent Dr. Leigh Solomon, and there were other conflicts of interest.

Decisions were made on the basis of partiality and bias.

The Board disrespected natural justice.

The topics of the remedial agreement do not even apply. They are inconsistent and contrary to the actual complaints, contrary to the evidence, and even contrary to the Committee's own concerns and observations etc. There was no train of reasoning. The Decision(s) were not based on the evidence. The Decision of the Board is highly irrational and unreasonable.
The Committee's decision is contrary to their concerns listed and is inconsistent with, and contrary to, the facts in evidence as a whole, and is contrary to the standard of logic. The Decision of the Board to confirm the decision is inconsistent with, and contrary to, the standard of logic. It is highly unreasonable.

The decisions are inconsistent with and contrary to many Acts, Codes and Laws.

The Board lacked jurisdiction to make such a decision by way of they failed to adhere to the regulatory scheme established pursuant to which is required, they failed the consideration of cumulative effects, and despite the panel being lawyers with certain educations, expertise, and experience, with all due respect they are not as such in important relevant areas in certain cases including in this case/matter.

The decision of the Board holds fatal flaws in its overall logic and it did not respect the factual evidence. The evidence is insufficient in regard to the Respondent Dr. Leigh Solomon and the evidence is supportive evidence to the Applicant. The Board erred legally in not weighing the evidence. A finding of fact(s) that is unreasonable in light of all the evidence is an error legally.

They breached the principles of fundamental justice by issuing a ruling without enough adequate merit or substance. They are supposed to investigate/review at least adequately, not just recite the complaints and responses repeatedly. Examining the actual substance is what defines an investigation/review.

Both Decisions are based not on the facts and condone the breaches of and are contrary to the Canadian Medical Association code of ethics and professionalism, condone the breaches of the code of physicians, condone the breaches of the enactment that every individual has certain patient rights, condone the serious breaking of laws by the Respondent Dr. Solomon, and condone risking a patient's life and condone the deadly consequences.

The Board and the Committee failed to apply appropriate standards in a manner that addressed the serious adverse cumulative effects, including deadly life threatening, in regard to the strong issues in the Complaints matter, and that was to say the least unreasonable, in so far as it condoned the additional harm and minimized the deadly adverse cumulative effects of that harm;

The Board's reluctance to recognize the Committee's failure to apply an assessment of and to ensure cumulative adverse effects were considered and minimized in regard to the case, and in regard to during the process of the Complaint, was, to say the least, unreasonable;

The Board's failure to require a true realistic assessment of extremely serious adverse cumulative effects based on the true actual facts and case in making the Decision was to say the least unreasonable, in so far as it condoned the harm and minimizes the adverse cumulative effects on the Applicant and on the public in general.

(i.e. The 100% suicide intent, attempted suicide directly recent preceding and also after the experience with Dr. Solomon/NYGH…etc., …and all were very aware. Only by mere chance the Applicant did not die during that terrible period and an extended period due to unacceptable and inexcusable breaking of codes and worse.)

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Such further and other grounds as this Honourable Court may advise, deem just, and permit.

Rules of Civil Procedures Act, R.S.O. 1990
Courts of Justice Act, R.S.O. 1990
Judicial Reviews Procedure Act, R.S.O. 1990, c J. 1
CMA Code of Ethics and Professionalism
The Canadian Charter of Rights and Freedoms
Constitution Act, 1982
Criminal Code

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION:

1. **Application Record**
2. **Factum**
3. **Book of Authorities**
4. **Certificate of Perfection**

Such further and other materials as this Honourable Court may advise and/or permit.

Date: September 3, 2024

Elaine Welkoff
1001-75 King William Crescent
Richmond Hill, Ontario
L4B 0C1
Email: lwhon4@gmail.com
Telephone: 647-619-2695

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(iv) CPSO/ICRC Decision

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rior Court of Justice / Cour supérieure de justice

CPSO

INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE
(the Committee)

DECISION AND REASONS

CASE NO.:	CAS-407893-N4F8R9
COMPLAINANT:	Elaine Welkoff
RESPONDENT:	Dr. Leigh Solomon
CPSO NUMBER:	52416
SPECIALTY:	Psychiatry, Child and Adolescent Psychiatry

INTRODUCTION

On March 20, 2022, the Complainant (aged 63) attended the Emergency Department (ED) of the North York General Hospital (NYGH). She had just been discharged from another facility, and she expressed concerns of "wanting to commit suicide," and requested a medical assistance in dying (MAID) procedure. The Complainant had a history of mental health issues but had not required psychiatric treatment for a long time. She recently had some health issues and losses, she had moved and was living on her own, and she was affected by the COVID-19 pandemic and felt she needed help.

The Complainant was admitted on a voluntary basis to the psychiatry unit under the Respondent's care. The Respondent met with the Complainant on March 21 and 22, 2022, and then completed her initial consultation note on March 23, 2022. The Respondent's diagnostic impression was persistent depressive disorder with dependent and borderline personality features. The Respondent began to introduce discussion around a discharge date, potentially on Friday, March 25, 2022. During the admission, the Respondent continuously prescribed Prozac, which the Complainant had previously tried, but records show the Complainant declined the medication.

The hospital notes and complaint indicate the Complainant was at times unhappy with the care she was receiving from the Respondent during the admission. The Respondent agreed to allow the Complainant to stay through the weekend. The Complainant understood that another psychiatrist would take over her care after the weekend, however, on Monday, March 28, 2022, the Respondent was on the unit, much to the

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Complainant's disappointment. Records indicate discharge was decided upon, the Complainant resisted, and she left hospital by herself, but in anger and accompanied by security guards.

The Complainant is concerned that the Respondent:

- **inappropriately told her that she should never have been admitted and that there was no help there for her;**
- **inappropriately profiled her;**
- **refused to offer outpatient supports;**
- **made untrue statements;**
- **instructed the social worker to only provide Oshawa Durham Region resources;**
- **had her forcibly removed from the hospital on a snowy day while she was in an active suicidal ideation state; and**
- **provided falsehoods in the discharge summary, which heightened her suicidal ideation state and affected subsequent care.**

DISPOSITION

The Mental Health Panel of the Committee considered this matter at its meeting of May 9, 2023. For the reasons set out below, the Committee has determined that the Respondent would benefit from remediation—and therefore has agreed to accept a remedial agreement from the Respondent—with respect to her knowledge in the following areas: risk factors and management of personality disorders and persistent depressive disorders; and discharge planning.

The Committee believes in pursuing focused education of physicians in appropriate circumstances and in this case the Committee has accepted a remedial agreement from the Respondent, dated May 17, 2023. In a remedial agreement, the physician agrees to address educational needs identified by the Committee and to follow up with the College. There is no information before the Committee to suggest that the Respondent is not capable of remediation of the identified concerns. In signing this agreement, the Respondent acknowledges the Committee's concerns and agrees to engage in self-study in the areas set out above.

The Committee expects the Respondent to complete the self-study and then follow up with the College no later than 4 months after the date of signing the remedial agreement, so that the College may ensure satisfactory completion of the education.

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ROLE OF THE COMMITTEE

When the College receives a complaint about a physician, the Committee, with the assistance of staff, conducts an investigation. Completed, written records of investigation are presented to panels of the Committee, which meet regularly to review and dispose of these.

When reviewing a complaint, the Committee considers the seriousness and context of the concerns raised, the physician's insight into their practice, their capacity for remediation, and their relevant College history. The Committee seeks to protect patients and, where possible, to enhance the quality of physicians' care or conduct through education and remediation.

The Government of Ontario, through legislation, sets out what the Committee may do after considering a complaint. The Committee may: take no further action; issue advice or state its expectations; require the physician to appear before a panel of the Committee to be cautioned; require the physician to undertake a specified continuing education or remediation program; or take action it considers appropriate that is not inconsistent with the relevant legislation.

The Committee will, in some instances, refer a matter to the Ontario Physicians and Surgeons Discipline Tribunal (OPSDT or the Discipline Tribunal) for a live hearing into allegations of professional misconduct or incompetence. This occurs only where the Committee determines that referral to the Discipline Tribunal is in the public interest, and that the available information has a reasonable chance of supporting a successful prosecution. Finally, the Committee may refer a physician for incapacity proceedings.

The Committee cannot award or recommend financial compensation.

The Committee does not determine liability, or whether a physician's action or inaction caused a particular outcome, nor is it the Committee's role to punish physicians.

The Committee appreciates the participation of the Complainant in bringing these concerns to the attention of the College. Public engagement helps the College to protect the public interest and improve the quality of physicians' care. The Committee also acknowledges the Respondent for demonstrating professional accountability in responding to this complaint.

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For more information about the role of the College and the Committee, please visit the College's website at www.cpso.on.ca.

INFORMATION BEFORE THE COMMITTEE

The Committee considered the information obtained during investigation of this matter. In most cases, this includes information from both the Complainant and the Respondent, as well as the medical record.

The Committee is bound by legislation and regulations, which are applied in the decision-making process. The Committee also refers to the College's publication, "The Practice Guide", as well as College policies and related guidance documents which reflect the College's professional expectations of physicians practising in Ontario. These documents are available on the College's website. The Committee will provide a copy of any policy referred to in this decision.

As part of its decision-making process, the Committee always considers the physician's history with the College, if any.

ANALYSIS

The Committee considered the following points in reaching its decision:

Concerns that the Respondent:
-inappropriately told the Complainant she should never have been admitted and that there was no help there for her
-inappropriately profiled the Complainant
-refused to offer outpatient supports
-made untrue statements
-instructed the social worker to only provide Oshawa Durham Region resources

- All the above concerns relate to the Complainant's overall complaint that the Respondent did not properly assess or treat her.

- The Complainant states that the Respondent never really discussed her issues with her, and she felt the Respondent deemed the admission was illegitimate.

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- In her response, the Respondent provides a summary of her care for the Complainant. With respect to the above concerns, the Respondent's information includes the following:
    - She did not tell the Complainant she should never have been admitted "just because she was lonely." She does not question who is admitted to the inpatient unit, and that is the decision of the psychiatrist on call. She believes that social isolation is one of many factors that was impacting on the Complainant's mood, but she says that she would not presume to call someone lonely. She recalls mentioning this issue as a means to demonstrate her empathy to the multiple stressors in the Complainant's life. While it is her practice to discuss discharge plans from early on in an admission, that was not the only topic she attempted to discuss with the Complainant. Her notes reflect that they had a variety of discussions, and she would have liked to discuss more with the Complainant but at times the Complainant preferred not to engage in further discussion.
    - With respect to the concern about profiling, she did not make assumptions about the Complainant based on her age, marital status, etc.
    - She asked the unit social worker to discuss outpatient follow-up with the Complainant. She points out that the clinical notes reflect that she suggested various options to the Complainant, including follow-up through NYGH, follow-up through Lakeridge Health, and follow-up in her community.
    - She is not aware of any inaccurate statements she made during her sessions with the Complainant.
- The Committee has reviewed the medical record carefully. Of note in this review:
    - We are concerned that the Respondent's notes do not address any real diagnostic issues or suicidal risk factors in a patient who said she wished to die. In the Committee's opinion, the notes do not provide a sense that the Respondent understands the complexity or the arc of this patient's treatment and recent responses in the Complainant's previous hospitalization. We would expect a more thorough initial consultation note from a psychiatrist, in terms of attempting to understand a patient just met.

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- There is no information to support that the Complainant was referred only to Oshawa Durham Region resources as stated above; there are comments in the notes about the Complainant being dismissive of certain attempts to provide support.
- The record does not address the medication issue, or an attempt to try an alternative medication, only that the Complainant rejected the prescribed medication.
- Notes show that on the day of discharge, when a nurse asked about the Complainant wishing to remain in hospital (prior to security being called), the Respondent indicated that, "the pt [patient] doesn't want to be helped." However, this is clearly not the case, as set out in many of the hospital progress notes (even despite that some notes also describe some resistance to help).
- Notes show that the Complainant presented differently to different people, and different psychiatrists were able to interact with her.

- Overall, the record suggests to the Committee that the relationship between the parties was not optimal. In our view, the Respondent bears responsibility for much of this.
- As just noted above, the Respondent's notes are sparse, providing little insight into the dynamics of the treating relationship. The notes suggest the Complainant's "help rejecting" was not understood or appreciated within the context of her also help-seeking. The absence of a proper risk assessment in the face of the Complainant's recent decompensation and her risk factors suggests to the Committee that the Respondent did not take her concerns sufficiently seriously and was inappropriately dismissive or not "listening".
- We also question why the Respondent did not try a different antidepressant with the Complainant, if she thought the Complainant had a persistent depressive disorder.

Concern that the Respondent had the Complainant forcibly removed from the hospital on a snowy day while she was in an active suicidal ideation state

- The Respondent explains that as she felt that the Complainant met discharge criteria after their last encounter on March 28, 2022, she entered the discharge

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order, but she did not have the Complainant forcibly removed from hospital. The Respondent indicates her impression was that the Complainant had chronic passive suicidal ideation, but the Complainant repeatedly denied having active suicidal intent, including on the day of discharge.

- Again, the Committee is concerned, overall, that while the Complainant did say she was suicidal, the Respondent's notes do not explore this in any detail except to indicate it was passive ideation. The Respondent states that the Complainant rejected treatment, but based on our review of the medical record, it also appears there were difficulties in the parties' treating relationship itself.

- The records support that the Complainant clearly stated to different individuals involved in her care that she was not ready for discharge, and she felt not listened to. Notations in the chart from multidisciplinary team members document the Complainant's suicidal thoughts and intent, including on the day before her discharge.

- The Committee is concerned about the discharge plan in this clinical circumstance. The records suggest this could be considered a premature discharge.

- Sending a patient home with multiple (documented) adversities may put them at risk. In this case, the Complainant had experienced an acute decline in the context of numerous stressors, including the added isolation of the pandemic. An inpatient stay with discharge to the same set of circumstances would represent a challenge for a vulnerable patient. Also, the Committee notes that while outpatient programmes were coming back on board at the time in question, they were still overwhelmed.

- The Committee is aware that the Respondent's history at the College includes a previous written caution around discharge of a patient without assessing the appropriateness of discharge planning.

- Considering this history, the Respondent should be aware that proper discharge is fundamental to proper treatment of patients with persistent depression and borderline pathology, if indeed that is what the Complainant has. Again, the Committee wishes to reiterate that we could see no support in the medical record as to why that diagnosis was made. The Complainant may have had borderline/dependent features but clearly coped for a long period of time, so more diagnostic clarity was required.

8 **The only barely scarce referencing** of Ms. Welkoff's serious key elements of complaint-complete falsehoods in all the doctor's notes and responses was at … pg. 8 of CPSO/ICRC decision… only mentioning the short discharge summary, being a minuscule portion of the complaint, with a lacking response that means exactly what?

The only barely scarce reference in the CPSO decision was:

> "the applicant's "Concern that the respondent provided falsehoods in her *discharge summary*""

with CPSO's meager and lacking response of:

> "The complainant's assertion that there are untrue statements in the *discharge note* leads the Committee to again have questions about the Respondent's engagement with this patient".

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Concern that the Respondent provided falsehoods in her discharge summary, which heightened the Complainant's suicidal ideation state and affected subsequent care

- The Respondent says she attempts to complete as accurate a discharge summary as possible.
- The Complainant's assertion that there are untrue statements in the discharge note leads the Committee to again have questions about the Respondent's engagement with this patient.
- In the Committee's opinion, the discharge note is curt with respect to a patient who felt misunderstood. Again, we are concerned there is insufficient detail by the Respondent to guide one's impression of this patient. We observe that such detail, instead, comes from notes from other physicians and nurses in the record leading up to the time of discharge. The brief discharge notes also indicates inadequate discharge planning, in the short notation by the Respondent of the follow-up instructions, "Suggest follow up with FD [family doctor] and suggest mental health support."

Remedial agreement

- The Committee concludes that the Respondent could benefit from further education to assist her in gaining a better understanding around the risk factors and management of personality disorders and persistent depressive disorders, and discharge planning, and a remedial agreement is the appropriate disposition of this case.

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PANEL MEMBERS: May 9, 2023

B. BURKE, MD – Chair, ICR Committee
D. MESCHINO, MD
K. SHIVAKUMAR, MD
F. SHERMAN – Public Member

(v) Relevant portions **from Ms. Welkoff's Factum in support of the Application for Judicial Review** (pgs. 33, 37-42)
(all the below information was included in information made available to CPSO/HPARB)

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(b) Deliberate Lying and Fraud
(Dr. Solomon)

7. As far as Dr. Solomon though, it is a totally different story, it is not the "accuracies/ inaccuracies" and all the other elements of problems with hospital records. In regard to Dr. Solomon we are talking about a **deliberate** type of attitude and **"deliberate" falsehoods written and to a *shocking and extremely harmful degree***.

Background

8. ElaineW has been very, ***very* blessed**, and is **so grateful**, in that **almost her entire life has been a very happy, healthy, fulfilling, wonderful life**. She could write a short biography summary herein, but will leave that for if it is required at a later date - and there is more than enough to prove it. She journeyed through the many wonderful years (*coping* through the sad/ bad days/events, as is life, along the way along with all the very good during all those years). ElaineW wrote this paragraph to correct some gross misinformation. There is more than one reason why this is very important.

9. However, as fate would have it (no one can control fate), there was *unusual* "tragedy, ***etc.***/ridden" times twice in her life, the worst the recent one which was overwhelming (as in general would be the case result with most anyone). **Then** to add to it, got the "kicked when you're down" (and severely) through some of the hospital experiences.

10. In March 2022, after several years of an unusual amount and degree of accumulating (without time in between for relief and healing) very bad experiences, losses, etc. and trauma (only a fraction of what went on in a short period of time is documented in records but it is more than enough to be informative enough of the situation), ElaineW was nearing the end of the rope. She fought strongly, more than most people that she has known and knows personally ever could, especially if without support of any kind, but there came to be absolutely no hope in

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told, hopefully something would be done, for many reasons, even if it was after ElaineW's death, for a variety of reasons. I said it was a *very serious* matter.

15. At first ElaineW said given her circumstances she could not do much more than tell what happened. She said she cannot see how she could do the work necessary, whatever that would entail, probably getting witnesses, etc., but at least the story of what happened needed to be given them. The intake woman said "don't worry about having to do any work, that they do all the work, investigating, talking to witnesses" etc. ElaineW then told her the obvious people that should be interviewed, and why the relevancy. The in-take woman also said that they could also just keep a record of the complaint if she did not wish to proceed further than that. ElaineW replied that it was not that she did not wish to, it is important, she just did not know if she *was able to*. (*…"they" do all the work?).* After a couple of days ElaineW decided to go forward with the complaint process as much and as long as she could, because it was so very important (and she figured they would just "file it"), but finally getting into the next world was her priority.

16. ElaineW notified CPSO and a phone appt took place. Afterwards the in-take woman sent ElaineW an email. When ElaineW spoke on the phone again with the in-taker after ElaineW received that email that included a few lines of "the intake-person's" "summarization" of the complaint, ElaineW couldn't believe it. Did the in-taker read the complaint even? ElaineW asked her about it, saying "that is all you are going to write and how you wrote it?" In-taker said that ElaineW could add to it, and ElaineW said but she already sent what happened, day by day. In-taker again said ElaineW can add. ElaineW asked if she knew what ElaineW was currently going through, and told her some about it. She said not to worry because ElaineW can add to it, right up to the hearing. ElaineW MADE SURE she understood what the in-taker meant, and asked over and over "I can add whatever at whenever time right up to the hearing", answer given to her was "yes". (***going forward for now…* : however, when ElaineW went and got the hospital records about two months after she submitted the complaint, and read the lies in Dr. Solomon's

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notes, and managed to write further additions to the complaint based on the fraud in the hospital records by Dr. Solomon, they basically completely ignored that email. It is in the record of investigation as an email, and as added to the complaint, but they ignored it. They did not add it to "their" version of complaints or in the written decision (published). The only lies they kept *upfront* was about the lie in the discharge summary by Dr. Solomon (Dr. Solomon offering NYGH out-patient and ElaineW refusing) and the lie by Dr. Solomon saying that she did not tell ElaineW the "…because she was lonely"" statement. They did not add the important relevant strong complaints about all the falsehoods by Dr. Solomon that were in the hospital records (and then afterwards also the extreme lies in her Response).

17. (******_now back to chronologically_) ElaineW was told an authorization would be sent to her to sign to give permission for them to obtain the hospital records. ElaineW said she would like a copy also (going through her mind was "if Dr. Solomon lied in the Discharge Summary, and so much nonsense was going on, ElaineW thought it wise to get a copy of the hospital records as well and see what the heck was in them, also, if CPSO and Dr. Solomon/&counsel were going to have a copy and there are lies in the records as ElaineW thought was obvious there must be, then she should know what was going on with them). The "investigator" refused. ElaineW did not like that. This was "her health" information file. Records *purporting* to be about "her" health and "her" experiences in hospitals. "*She"* was the one suffering. SHE IS NOT ALLOWED? ElaineW got them herself. She had to go to the hospital and pick up a paper copy of them. Pay for them. It took CPSO a long time to receive them over two months (at least she had thought so at the time due to the ***misinformation*** given her by CPSO), but it took only a few days for ElaineW to obtain them.

18. On October 24th, 2022 she picked up a paper copy of the hospital records, while still in that awful state, for months and months, without support from anyone, all that happened, all going on, wandering, no sleep, trauma, nightmares, flashbacks, pain and guilt she could not bear, suicide intent/attempts, alone lying on beds in hotel rooms, ***etc. etc. etc***.

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19. After another never-ending night of flashbacks (it was even worse during the never-ending nights) the next day ElaineW started reading the NYGH records. Accuracies/ Inaccuracies. *Then*, "Dr. Solomon's notes". OMG. It was not the fact that she got the records, or the fact that she read the notes, …it was the lies, and the **degree and type of lies**, compared to the truth! which also meant an even more impossible chance for that maybe "inkling" of hope/chance to be helped, if she could not succeed finally the suicide. Very painful also because to read how Dr. Solomon lied about talking with ElaineW about certain things that were so painful for ElaineW, *only one* example being: when JUST finding out about yet another loved one's suffering and upcoming suffering at the exact same timing of the final straw trauma and ElaineW was attempting to say about it "I just found out "*the loved one"* has some awful disease and…" (when she was attempting to speak in the first session) Dr. Solomon coldly and cruelly cut off ElaineW in mid-sentence, Dr. Solomon saying "**I don't want to hear about it**". How dare she do that when ElaineW was trying to say about something so painful, then how dare she write that "she discussed it with ElaineW (and even adds **"as empathy"!!!!!**)". **SHE DID NOT**. **SHE DID NOT. SHE DID NOT! She did the exact opposite!!!!!** With everything true in my written Complaint, how dare she have the nerve to lie about talking about various things and also such an ***OBSCENE*** **lie** with the "as a way of empathy" line. WHAT type of person does that? For God's sake, does not anyone see the effect that would be on an individual enduring so much pain, wanting to die so badly and trying to die so strongly? …and also Dr. Solomon defeating any chances of perhaps someone stepping in that could maybe possibly help ElaineW? In the dilemma ElaineW was in? (Empathy - as the "code of ethics" requires **but did not happen**). With all and everything true in my written Complaint, with everything else as well, how dare she have the nerve to lie about "as a way of empathy" line. For God's sake, does not anyone see that **she is taking from the "codes of ethics"**, or whatever it's called and just listing things (empathy being listed in the Code) as if she followed the codes????????? (which was also sent by CPSO in her "package" to aid her in her defence, "false" defence).

This was told directly to the HPARP Board during the HPARB hearing (as well as there being the detailed Patient Experience Report/Email Complaint), the voicemails to CPSO, etc., & also substantiating evidence.

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20. About the drugs, she wrote how she talked with ElaineW about the drug, side effects, etc.!!!!! THAT DID NOT HAPPEN! How gullible can anyone be to believe that? How can it even make sense? I (ElaineW) already KNEW about the drug, the side effects, I lived it, I already stated I would not take. That I had to be careful about "drugs". I refused to it with each and every nurse and said why, whether each one got it straight or not. On the day of arrival at NYGH **this was told by me** to several staff in ED, including the doctor that I begged for M.A.I.D. (that I had just found on-line and read about, even though I was not able to read all details about it, but I was researching ways I could die by means I could manage, I desperately needed to die, so could I actually get help to die? end the pain? The ways I was trying were **excruciating**. She said to me in the session "**I AM NOT ABOUT TO DISCUSS DRUGS WITH YOU**", in a *very* condescending tone. **I REPEAT**, she said, quoting her **"I AM NOT ABOUT TO DISCUSS DRUGS WITH YOU"**. Then she writes something like what she wrote in her Response. She just copied the proper procedure policy word for word. Just copied what the prescription label info would be word for word. Out of this world nerve (to say the least) (really CORRUPT is more suiting) and I have to say out of this world unreasonable of CPSO and HPARB not seeing it all, it's blatantly clear. I submit they did not *want to see it*, even if in reality they did see it. They did NOT WANT to accept it, even if in reality they did. It is perfectly clear as a lie of Dr. Solomon's. I submit they did not *want* to show it was all blatantly clear, so they didn't, on their part. However, it is blatantly clear another blatant lie by Dr. Solomon.

Despite how painful, it was the best thing that ElaineW got the hospital records, she was better aware, because she would not have been able to, if she did not get the records herself, add to the complaint the very important necessary additions, even though they obscured that. Even though Dr. Solomon's lies in the hospital records were another "kick me when I'm down", it was the best thing for ElaineW to know because it helped ElaineW in other ways. To not know that all that undercurrent corruption is going on just makes things even worse. ElaineW doesn't know if some others understand what she means, but she does know a lot do understand.

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21. ElaineW cannot go on herein in detail (outside of the CPSO/HPARB complaint process), with all that happened from once she got the hospital records, and later once she got Dr. Solomon's Response, and up to until she finally took a completely different path during 2023 and finally started to turn the corner during the summer of 2023 from the 100% suicide need, intent, and attempts at getting that suicide done. Believe it or not - there is more to the ugly story. However after staying far away from that hazardous deadly route and taking a very different path, finally a different result - ElaineW was out of the suicide intent/attempts state in late summer/fall of 2023.

22. (Back to chronologically) When ElaineW received from CPSO Dr. Solomon's Response on January 27, 2023, OMG. OMG. OMG. It was mind blowing how anyone, let alone a doctor, worse yet a psychiatrist, could do such a **degree** of falsehoods. Her hospital notes were bad enough. But THIS???? Such a cruel and harmful thing. The Response is total fiction. How can anything like this be allowed to happen? I cannot describe the effect on me. Can anyone out there not even imagine it? Read the Complaint/Patient Experience Report then read Dr. Solomon's Response. Can anyone out there not even imagine the effects? There is no other way of putting it other than Dr. Solomon is an extreme liar. What she wrote is total fiction about what took place between herself and ElaineW. She must have read through all of ElaineW's complaints, read through the hospital records, read from other notes and records, took from it and put together a piece of fiction of what took place between herself and ElaineW. Obviously in order to respond to an official complaint that was submitted, and that it was a very serious matter, she decided she had no choice but to "make up a false story". She was not about to admit the truth about it all. Also, given how she has been described by many, and how many complaints have been made about her, whether all complaints progressed to the point of official complaints to CPSO or not (some of which did besides ElaineW's complaint), or whether they reached the HPARB stage or not, or to getting it started in court (which, given what one has to go through to get to that point of submitting a Notice of Application for Judicial Review, it is not

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unreasonable to conclude "just how many can withstand the type of CPSO and HPARB processes?); Dr. Solomon has had previous decisions, caution(s), etc., so she is quite familiar as to what she has to do in how to falsely "cover" for herself, from the writing of notes in hospital records when she wants to completely control the situation with a patient to her unethical personal preference, but needs to cover for herself with lies in notes, just in case, right up to her Responses to CPSO, and through HPARB. It is highly disturbing the degree of fraud, life threatening fraud. There can be no other explanation. It is not possible that there is any other conclusion other than Dr. Solomon has deliberately falsified what occurred to a shocking and very cruel degree. ElaineW knows this, she knows what she experienced from this doctor, ElaineW is telling the truth, and this is a very serious matter and concern, and it should be taken very seriously. Also, ElaineW submits there could be an element of "strategy" also being used by those involved with the outrageous Response (wrongfully).

Dr.'s lies so shocking
13 voicemails
Complaint to CPSO/Tam

23. When ElaineW was sent the Response on January 27, 2023 it was truly even **more** shocking than she anticipated. It was quite devastating, justifiably. She delivered 13 voicemails (refer to **APPENDIX "2B"**) to the "investigator" at CPSO who just ignored them. ElaineW of course added about it to the Complaint/Submissions by way of through voicemails and emails. At that point in time ElaineW had just gone through a horrendous December (including Christmastime, which used to be her very favourite time of year, *so very* painful) more harm and issues to deal with/through the months several more attempts at getting that suicide done (two major attempts/the closest ones to succeeding), the flashbacks unbearable, was exhausted to the point of almost passing out at times, and was *severely* distraught.

24. February 2023 to May 2023 communications between ElaineW and CPSO regarding when will Committee meeting be and decision be made, etc. May 9th was Committee meeting. July 28, 2023, ElaineW received the Decision, almost three months after Dr. Solomon received the Decision on May 9th, 2023.

Appendix 2B (Appendix 2, reply to response, VMs Jan. 27/23 - Point Summary Outline

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investigation regarding the important relevant matters been done? Has what was told to ElaineW re interviews and what was communicated to them by ElaineW and the information ElaineW gave regarding who can be interviewed being taken seriously and done? If ElaineW knew they did not and were not going to do anything other than get hospital records, then she would have known that she should try to do it, interview, get affidavits, etc. No information about the actual “investigating” aspect was being provided to ElaineW even though she inquired many times and asked for that information;

12) ElaineW was expected to provide materials and get things done by certain dates, yet CPSO and HPARB were going against their mandate with extensive delays (even when ElaineW was flexible and tolerant they still “overdid” it); at times no notification to ElaineW as to why and for what legitimate reasoning; not providing at least approx. timing etc. as is a rule in their mandates;

13) Dr. Solomon received decision from CPSO on May 9th, 2023, the very day of the Committee investigation; however ElaineW was not notified about that or the remedial education agreement contents, etc.; ElaineW did not receive decision until July 28, 2023 and probably would have received it even later if not for ElaineW's emails to CPSO;

14) Attempting to not include her written submissions in the file; (as also reflected in the HPARB Review Hearing); Only because ElaineW kept at them to make sure to confirm receipt and that it was added to the file did they finally respond; and only after the hearing was finished and my keeping at them, did they confirm it was received and in file. However, as evident, they still kept it quite obscure barely including it, and miswrote some facts from it in their published decision;

15) Obscuring and/or minimizing what was in her very relevant reply-to-response:
Not considering her most relevant voicemails of January 27, 2023, which was a huge part of Complaint, Reply, and Submissions; and the emails;

16) Before even the hearing took place, in the Case Conference, in which only ElaineW attended with the HPARB, telling ElaineW there was no point in going ahead with an HPARB review;

17) Ms. Tam not providing approx. timing of CPSO committee meeting date for many weeks although ElaineW kept requesting to please provide at least approx. date as it was very serious that she at least knew that; according to the Act, CPSO/Ms. Tam was supposed to provide that, but Ms. Tam did not until a long time.

18) The 13 voicemail reply-to-response were ignored by Ms. Tam, by the Committee, by all involved at CPSO, and by HPARB, although it shows they were kept as part of the file. The “robot”-system transcriber was gobbly-gook. The actual voicemails were too utterly important to just be ignored. ElaineW suffered greatly from the lies in Dr. Solomon’s Response in many various deadly ways. Another example of careless and very poor quality work by CPSO. It was one of the most important vital pieces of material. The high degree of fraud Response affected ElaineW badly, it was vitally important that she be able to communicate the degree of falsehoods to CPSO. It was very difficult given the volume and degree of lies by Dr. Solomon, and all of ElaineW’s state and circumstances at that time - but she certainly managed to do a more than great job of communicating and delivering that information anyway, despite Ms. Tam’s et al reluctance to take note of it and take it seriously. She was kicked when she was very down upon receiving such a fictional novel, and was very seriously affected. She went about dealing with it in the best way she could while having just attempted suicide again, by in the voicemails reading through each lying sentence (which were all lies by Dr. Solomon) and stating THAT DID NOT HAPPEN, SHE IS LYING! and repeating YET AGAIN for the millionth time the

Further **Portions from Ms. Welkoff's Factum in support of the Application for Judicial Review** (pgs. 35-36)

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received shockingly bad, unprofessional and extremely harmful bizarre attitude and behaviours from the assigned doctor, Dr. Solomon, as well as an unreal awful "discharge".

- **INTRODUCTION Part 2**

12. During the next many months after NYGH, ElaineW was still in the state she was in, stuck in limbo, because of not being able to succeed attempts of the same suicide or to get the appropriate help which "might" have given a chance to her. She could not, because there was far too many falsehoods in hospital records, which caused snowballing effects, copy and paste problems, as well snowballing resentment/and protectionist attitudes when "concerns" a patient had were heard about. ElaineW would hear things like many different "diagnosis" (pl.) (due to recklessness, negligence, unprofessionalism, or *worse*) including *contradicting* diagnosis, many inaccurate "histories", "help-rejecting" nonsense, "*victim-blaming"* nonsense and labeling …the list goes on, she did not know what the heck was going on. (…all the while suffering in that state). ElaineW even asked at certain points, are you sure you came to the right patient? When mention was made about refusing NYGH out-patient help while at NYGH a shiver went up ElaineW's spine. When she said that was not true, where did they get THAT from? They told her from NYGH Discharge Summary notes. OMG. (At that point in time ElaineW had not obtained hospital records of course. (***going forward for now… many months later, upon getting the records, she found in the hospital records that lie, **as well** of course **the high volume of other lies in the notes Dr. Solomon wrote**. She could not believe what Dr. Solomon had written. She found a discharge summary in the records **that did not match** the discharge summary they shoved in her bag at NYGH as they threw her out on the curb (See **EXHIBIT "D"**). She noticed some serious "inaccuracies" but was grateful for a lot of accuracies as well). ****Back to chronologically* Later on through those months ElaineW while still suffering so badly and still intent on and attempting that same suicide, she submitted the Complaint against Dr. Solomon to CPSO on August 25, 2022.

Exhibit "D" - Discharge Summary

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13. ElaineW was desperate to get the truth and facts straight because she could not take the excruciating pain of what led to the need to die, the flashbacks ("NO!"), as well as nightmares, waking up screaming "NO!" The pain just cannot be described. One has to go through it to really know. Unless one is able to have that wisdom. All the other awful things that happened and going on at the same time as well. What happened to her life? Her ENTIRE life? ALL her remaining loved ones gone practically all at once (by death or otherwise). Everything else falling apart, lost, and losing as well. Why was EVERYTHING lost? Where was "*home"* either on her own home or with others home? All she had built up. All the joy. All she treasured. All that was her life. *Additional* hurtful/harmful things. All the blockades to try to help herself… (which she did try to so strongly, in many ways many times). No support from anyone/anywhere (which IS A COMPLETELY DIFFERENT DEFINITION from someone being "lonely", ElaineW NOT ONCE used that word/or meaning of it *herself).* THEN the final straw… and into a trauma state as well. She could not live with. AND THEN EVEN MORE… . ElaineW's next experiences during that episode in her life were those hospital experiences, while in such a state.

(To be noted: what ElaineW was going through WAS NOT the average day to day stressors or the average life holds many stressors definitions. ElaineW always found her own ways of dealing with that. In a lot of people's lives, there can come points of a very different thing.)

14. Upon ElaineW sending the elements of her patient experience report (which she wrote originally for a different purpose than the complaint (desperately trying to get the truth straight so she could find relief *one way or another*, death or truth to perhaps enable possible help), there was an email and phone conversation with a triage in-take person from CPSO. What ElaineW was doing at that point was putting her "estate" such as it had then become in order which included the complaint against Dr. Solomon. At several points through the CPSO process ElaineW did relay, and also at times attempted to relay even further, to CPSO that her time was up, there was no hope, so please move things along faster; what the doctor did, it had to be to

Further **Relevant portions from Ms. Welkoff's Factum in support of the Application for Judicial Review** (Pgs. 50 and 51)

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ElaineW's stay in the hospital are false, without basis. So one has to ask for what reasons was the extreme defamation of ElaineW Dr. Solomon's true goal? A person already in a trauma state, in a depressed state, going through hell in a variety of different ways/circumstances, in a state that included feeling that she let some of her loved ones down by not being able to help them more, even though a collapsing point doing the best she could, unable to protect them as much as they needed, that certain things happened that did not have to happen, that she could not stop some abuse by others that was inflicted on them and herself, then the terrible final straw trauma. Feeling despondent, distraught, guilt-ridden, worthless, etc. Also, all else that went on and was going on, all the destruction, through no fault of her own. At a point of completely broken with no longer any hope in sight. Then instead of receiving appropriate help, based on what had truly gone on/going on, you are degraded, character/personality assassinated, your life history misrepresented, you are misdescribed, you are treated with high disrespect, treated like garbage, treated like and even told you are worthless, labelled with all sorts of disorders and illnesses WITHOUT basis, sometimes out of spite, and many various other harmful things inflicted on you, thrown out the door like garbage …well, If THAT is what psychiatry is really all about, then heaven help us ALL. Because that can happen to ANY ONE OF US. It HAS happened to so many. It can even happen to anyone any day in any circumstances at all, because of *particular* (because not *all* are as such) "health staff" with attitudes and behaviours like that - and no one cares? To combat this? To help and save many victims? Why not? Rather, they choose to promote it?

(Without ElaineW meaning to "toot one's own horn", but due to the need for defence from Dr. Solomon's lies and defamation)
As far as Dr. Solomon's falsehood: "displayed a pleasant demeanour when interacting with copatients, but appeared to be more anxious and downcast when meeting with staff":

*** In the hospital notes, in ***every single*** reference:
- regarding Compliant With Care:"YES";
- regarding Behaviour: "CALM, PLEASANT"; "CALM AND APPROPRIATE ON INTERACTION";
- regarding affect: "CALM"
- "WAS CALM AND COMPLIANT WITH CARE ON APPROACH";
- "PT RECEIVED CALM AND REACTIVE ON APPROACH";

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- "NO IRRITABILITY OR ANGER NOTED";
- "NO ANGER NOTED, CALM AND PLEASANTLY EXPRESSING HER FRUSTRATION";
- "NO ISSUES OR MANAGEMENT CONCERNS";
- (there are *dozens* more same type of references

As far as Dr. Solomon writing *in her deliberately misleading way*: "she attended programs *minimally*":
***In the hospital notes, in *every single* reference:
- regarding Participating in Group Programs: "YES"
- regarding Attending Groups/Programs: "YES"
- regarding Attending Groups/Programs: "FULL ATTENDANCE"
- regarding participation in Groups: "SHE PARTICIPATED IN GROUPS."
- "NO MANAGEMENT ISSUES.

These comparisons, along with all other evidence as noted herein this FACTUM, clearly supports the truth of ElaineW, and how bizarrely false Dr. Solomon's Response is as well as the falsehoods in her notes. It supports the elements of the Complaint. It supports that CPSO and HPARB did not fulfill their requirements as described herein this FACTUM and as described in the Application for Judicial Review. The tiresome part of it all is, even as the file of the case is now, there is enough to see through all the extreme fraud just looking at the plain obvious facts, which CPSO and HPARB did not do, or did not *want* to do. This is also very, very painful to do for ElaineW (without the need to explain why). However ElaineW is in a ***Catch 22* situation**. The **worst choice** and **worst pain** and **worse effects** would be not to pursue this case.

36. Apparently CPSO (and HPARB) also did not know how to deal with Dr. Solomon's Response letter (as it is so bizarre), because it was barely even touched upon by them. Obviously it was quite apparent to them that her Responses showed the pattern of baseless statements, and also clear and deliberate lying to such an extreme. It was best for them to just make a huge percentage of it as obscure as possible, extracting next to nothing from it, and the next to nothing was handled in an illogical way.

B. POINT SUMMARY OUTLINE of the CPSO and HPARB Process
(Refer to attached **APPENDIX "2"**). (which also shows elements of **"procedural unfairness"**)

Appendix "2" - Point Summary Outline, VMs, etc.

(vi) Portions of the medical records

Message that was sent *directly* to Solomon (and there are others just like it send directly to Solomon)

(to be strongly noted: In Solomon's response she claimed she kept herself informed daily re info from nurses, etc. This is only "one" example of the unreasonableness of HPARB accepting doctor's response as the factor in their "reasonableness" aspect in their decision - in turn the Divisional Court's error in accepting HPARB's decision as reasonable etc.)

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NORTH YORK GENERAL
4001 Leslie Street
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Patient :	WELKOFF, Ms. ELAINE MARIE			MRN:	1991019
DOB/Age/Sex :	1958-Jun-20	64 years	Female	HCN:	2449945670
Visit Type :	MH Adult			FIN:	0007851023
Family MD :	None,None			Admit Date:	2022-Mar-20
Attend MD :	Guimond,Marie-Claude MD FRCPC			Disch. Date:	2022-Mar-28

Communication Forms

Document Name: Communication/Notification - Text Document Status: Auth (Verified)

Communication/Notification Entered On: 2022-Mar-26 20:36
Performed On: 2022-Mar-26 20:35 by Wang , Joyce

Message to Physician
Message From : Wang , Joyce
Message : Patient has plan to kill self by taking Tylenol, drink alcohol with it and not eat.
Attention To : Dr. Solomon

Wang , Joyce - 2022-Mar-26 20:35

RRID: 38447338

HPARB 241

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Attend MD :	Guimond,Marie-Claude MD FRCPC			Disch. Date:	2022-Mar-28

Mental Health Program Assessment Forms

Document Name: MH Nursing /CYC Progress Note - Text Document Status: Auth (Verified)

MH Nursing/CYC Progress Note Entered On: 2022-Mar-28 10:23
Performed On: 2022-Mar-28 11:31 by Wu, Yi Ling RN

MH Nursing/CYC Progress Note

MH Nursing/CYC Progress Note : Received patient sitting in the chair, calm. Compliant with care. vital signs are stable, no stomach discomfort but want some medication for it. Patient expressed that she still having suicidal thought, no actual plan. pt said"I have been livingwith guilt, I want to be done with it. Nothing I can do to to keep me here".

Dr. Soloman assessed pt and is discharging pt. Pt came to wirter said"Why is Dr. Soloman mt doctor, I have been told that i will have a new psychiatrist tooday. is it Dr. Guimond? Whu she entered the room talked to me like that....".

Writer comfirmed with Dr. Soloman regarding to MRP, Dr. Soloman said Dr. Guimond won't be back till tomorrow. She is discharging her.

Patient is upset and anygry when writer told her that she has been discharged home. pt said "I am not going anywhere today, you let me go is to let me die, I will finish myself today""Why you guys playing this mind game with me, the guy yesterday told me it's gonna be Dr. Guimond and now it's different story".

Writer spoke to Dr. Soloman that patient refused to go and she will kill herselve if she get discharged. Dr. Soloman awared and said "she does not want help".

Writer spoke to patient that she has been discharged and if she refused to go and we will call security to excort her out. Patient still refused to go. Security called and patient was upset said"i will kell myself, you guys should be shame, why are you huys playing this game with me".

Writer and security guard told patient that she has been discharged by physician and we need to keep going , however, if she has any distress she can call police or go back to emergency.

Patient walked out off unit by herself but in anger and accompanied by security guards.

Wu, Yi Ling RN - 2022-Mar-28 11:15

RRID: 38447338

Obviously an English language barrier, but some clear analysis can be made here. To note though: It is certainly not verbatim, as I did not say “I am not going anywhere today”. I stated “yes I WILL leave, but I want proper explanation please (as any patient would and is entitled to. As well she did not tell me *ahead of time* that she would call security if I didn’t leave. Writer did not tell me, but security did, re “you can turn around and come right back in AFTER leaving the room in the elevator. Perhaps security advised staff when they got back, who knows. However, all things considered, Ms. Welkoff is grateful that the nurse did write important info that she knew she should write.

To keep volume down in this Motion Record, we will look at the “In summary” paragraph in Dr. Solomon’s Response letter: “In summary, on the inpatient unit, Ms. Welkoff’s presentation fluctuated. She generally displayed a pleasant demeanour when interacting with copatients, but appeared to be more anxious and downcast when meeting with staff. She acknowledged longstanding intermittent passive suicidal thoughts but at all times denied active suicidal ideation. She was reluctant to discuss certain topics such as the impact of various stressors in her life and her preference in terms of outpatient treatment. She sometimes declined attempts to provide supportive therapy to her. She declined a trial of antidepressant medication. She participated minimally in the therapeutic programming on the unit.”

These are just “a few” samples of how every line in that summary has no basis at all and how the exact opposite is the truth, so how can it be reasonably concluded that this doctor did not lie, and/or that the doctor’s response is worthy of the HPARB’s basis for “reasonableness”. ???????

Confirmation of Dr. Solomon’s misleading falsehood of “she participated minimally in the therapeutic programming on the unit. **Please refer to excerpt from Applicant’s Factum in support of the application for judicial review on next page herein; please refer to *further portions of the Applicant’s Factum in support of the application for judicial review*** pgs. 50 & 51**.**

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Family MD :	None,None			Admit Date:	2022-Mar-20
Attend MD :	Guimond,Marie-Claude MD FRCPC			Disch. Date:	2022-Mar-28

Interprofessional Forms

Document Name: Group Therapy - Text Document Status: Auth (Verified)

Group Therapy Entered On: 2022-Mar-23 16:23
Performed On: 2022-Mar-23 13:30 by Dixon, Alexandra Recreational Therapist

Group Therapy
Date/Time of Group Therapy : 2022-Mar-23 13:30
Therapy Name : Art Group
Duration of Group Therapy : 75 Minutes
Participating in Groups/Program : Yes
Attending Groups/Program : Full attendance
Therapy Facilitated By : Dixon, Alexandra Recreational Therapist
Group Therapy Comments : During activity as pt. was watercolour painting, pt. became tearful and crying as she was painting. Writer asked pt. what's wrong. Pt. responded " I don't deserve to have enjoyment, I couldn't protect the one's I love and now they are gone." Writer provided pt. with support and active listening. After a couple of mins pt. collected herself and returned to painting. Pt. became tearful x2 two more times. Pt. and writer spoke briefly about loss, distraction, grief, etc.

Pt. finished art activity and said "thank you for letting me feel my emotions."

Writer will cont' to encourage pt. to come to group activities and encourage pt. to express herself through mediums of art, as pt. connected with art group

Dixon, Alexandra Recreational Therapist - 2022-Mar-23 16:18

RRID: 38447338

HPARB 277

(pg. 56)

… **g**. “She participated minimally in the

therapeutic programming on the unit”. OMG. Does ElaineW have to yet again go on about all these lies? She denied it to ElaineW. ElaineW searched the unit, she was suffering badly, she found what she could on her own. She participated in as much as she could find. She was in such pain, etc. The records show that she attended as much as she could find on her own. She needed help. She could not bear the pain. She needed to die. Die or at least find some type of hope that there may be a way. etc. How can Dr. Solomon be such a monster as to write that? Misleading other people like that? LYING to them? FRAUD. IT IS OBVIOUS HOW CRUEL AND HOW FRAUDULENT! It is obvious the danger, the consequences to ElaineW.

The fact that in all hospitals including this one the nurse is to ask the patient to rate how they are feeling, and she did so, and at that specific time I rated it as 0/10, the fact that the person not present during the time of rating told the nurse to change from 0/10 to 5/10! is questionable. However, Ms. Welkoff is grateful still to this nurse.

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DOB/Age/Sex :	1958-Jun-20	64 years	Female	HCN:	2449945670
Visit Type :	MH Adult			FIN:	0007851023
Family MD :	None,None			Admit Date:	2022-Mar-20
Attend MD :	Guimond,Marie-Claude MD FRCPC			Disch. Date:	2022-Mar-28

Clinical Flowsheet

Legend: *=Corrected @=Abnormal C=Critical L=Low H=High f=Footnote #=Interp Data R=Ref Notes

		Recorded Date Recorded Time Recorded By	2022-Mar-24 16:35 Kalil,Mawardi,RN
Procedure	Units	Reference Range	
Violent Ideation			No
Level of Observation			Routine observation *8
Peri Care			Independent
COVID-19 Screening Symptoms			No symptoms present
70 Yrs or Older Symptoms			See Below T81
Falls Prevention Status			Universal safety interventions

Textual Results
T17: 2022-Mar-24 16:35 (Thought Content)
Coherent and goal directed, Ruminations, Other: how much the doctor is not listening to her and wanting her out with out treatment
T81: 2022-Mar-24 16:35 (70 Yrs or Older Symptoms)
Patient is less than 70 years of age

Corrected Results
*8: Level of Observation
Corrected from Close observation on 2022-Mar-24 21:21 by Kalil, Mawardi, RN
Corrected from Routine observation on 2022-Mar-24 21:19 by Kalil, Mawardi, RN

		Recorded Date Recorded Time Recorded By	2022-Mar-24 15:30 Shamou,Miriam RN
Procedure	Units	Reference Range	
Handoff Follow-up Topics #1 Details			Please collect cellphone at hs
Daily Plan/Goals			Discharge tomorrow

		Recorded Date Recorded Time Recorded By	2022-Mar-24 14:56 Nimoh,Phiona Nursing Student
Procedure	Units	Reference Range	
MH Nursing/CYC Progress Note			See Below T57

Textual Results
T57: 2022-Mar-24 14:56 (MH Nursing/CYC Progress Note)
0730-1530 : Received client sitting up in bed. Oriented in all three spheres. Vital signs within defined limits. Affect is blunt, initially rated mood "0/10" but after speaking with my teacher and I rated mood 5 out of 10". Stated that she is down today because she will be discharged tommorow and she is "not looking forward to it." Client stated that she is worried that if something happens after discharge she might be sent to Oshawa General Hospital. When asked about Oshawa General, client stated "They are horrible there, and I'll die before I go there." When

RRID: 38447338

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Patient :	WELKOFF, Ms. ELAINE MARIE			MRN:	1991019
DOB/Age/Sex :	1958-Jun-20	64 years	Female	HCN:	2449945670
Visit Type :	MH Adult			FIN:	0007851023
Family MD :	None,None			Admit Date:	2022-Mar-20
Attend MD :	Guimond,Marie-Claude MD FRCPC			Disch. Date:	2022-Mar-28

Clinical Flowsheet

Legend: *=Corrected @=Abnormal C=Critical L=Low H=High f=Footnote #=Interp Data R=Ref Notes

Textual Results
T57: 2022-Mar-24 14:56 (MH Nursing/CYC Progress Note)
asked if she had a plan she stated, she is "scared to tell because she is scared she will be admitted at Oshawa General."

Client stated colouring helped improve mood, and proceeded to show a sheet with a flower that she had coloured. Offered to give client more printing material to colour. Denied visual and auditory hallucinations. Encouraged client to continue to voice fears and concerns regarding discharge with her doctor. Client states she already spoke with Doctor but will continue to do so. She participated in group colouring activity

Client complained of chronic pain around chest area d/t chronic cough stated it radiates to upper back area, rated pain 8/10 requested for PRN Tylenol, same administered.

		Recorded Date	2022-Mar-24
		Recorded Time	14:47
		Recorded By	Nimoh,Phiona Nursing Student
Procedure	Units	Reference Range	
Pain Present			Yes
Preferred Pain Tool			0-10 Numeric Rating Scale (NRS)
Numeric Pain Scale at Rest			8 = Horrible
Primary Pain Location			Back upper, Chest
Primary Pain Time Pattern			Chronic
Pain Associated Symptoms			None
Pain Plan/Goals			See Below T1
Facial Expressions			Neutral, smiling
Vocalizations			No crying
Non-Verbal Behaviours			Calm/Relaxed
Breathing Independant of Vocalization			Normal breathing
Pain Evaluation Self Report			Pain level acceptable
Pain Evaluation at Rest			Pain level acceptable
Level of Observation			Routine observation

Textual Results
T1: 2022-Mar-24 14:47 (Pain Plan/Goals)
Chronic fibromyalgia pain. PRN Tylenol given

		Recorded Date	2022-Mar-24
		Recorded Time	14:36
		Recorded By	Shamou,Miriam RN
Procedure	Units	Reference Range	
Eye Contact			Good/appropriate
Level of Consciousness			Alert

RRID: 38447338

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Visit Type :	MH Adult			FIN:	0007851023
Family MD :	None,None			Admit Date:	2022-Mar-20
Attend MD :	Guimond,Marie-Claude MD FRCPC			Disch. Date:	2022-Mar-28

Mental Health Program Assessment Forms

Document Name: MH Nursing /CYC Progress Note - Text Document Status: Auth (Verified)

MH Nursing/CYC Progress Note Entered On: 2022-Mar-21 13:54
Performed On: 2022-Mar-21 13:49 by Dhall, Balesh, RN

MH Nursing/CYC Progress Note

MH Nursing/CYC Progress Note : Recieved sleeping at begining of the shift, woke up at breakfast time, eat poorly, mood sad tearfull, admits s/i but no plans while in the hopital. denies any hallucinations, c/o gen chronic pain in rt shoulder and rt chest hx fibromyalgia. seen by Dr Tietle for pain. remains in droplet contact isolation for pending covid results. Will monitor.

Dhall, Balesh, RN - 2022-Mar-21 13:49

RRID: 38447338

I certainly would never harm others, and I would never attempt suicide while in a hospital due to in-access to means and due to the awful consequences if you do that in a hospital.

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Patient :	WELKOFF, Ms. ELAINE MARIE			MRN:	1991019
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Visit Type :	MH Adult			FIN:	0007851023
Family MD :	None,None			Admit Date:	2022-Mar-20
Attend MD :	Guimond,Marie-Claude MD FRCPC			Disch. Date:	2022-Mar-28

Mental Health Program Assessment Forms

Document Name: MH Nursing /CYC Progress Note - Text Document Status: Auth (Verified)

MH Nursing/CYC Progress Note Entered On: 2022-Mar-26 9:36
Performed On: 2022-Mar-26 19:08 by Zhao, Ban, RN

MH Nursing/CYC Progress Note

MH Nursing/CYC Progress Note : On writer's initial round, patient was observed watching TV in lounge, calm and cooperative, denied any thought to harm self and others, denied hallucination, patient said she wouldn't do anything in hospital, it's good to be around with people here, but it doesn't resolve her issues, her life is done. She still refused Fluoxetine. Cellphone given. Fair appetite.

Patient spent the day either watching TV in lounge or lying in bed.

PRN Tylenol Regular 650mg PO was given as patient's request for generalized pain with some effect.

Patient refused vitals when writer offered it, said "There is no point you check everyday!"

Cellphone to be collected at hs.

Zhao, Ban, RN - 2022-Mar-26 19:07

RRID: 38447338

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Visit Type :	MH Adult			FIN:	0007851023
Family MD :	None,None			Admit Date:	2022-Mar-20
Attend MD :	Guimond,Marie-Claude MD FRCPC			Disch. Date:	2022-Mar-28

Mental Health Program Assessment Forms

Document Name: MH Nursing /CYC Progress Note - Text Document Status: Auth (Verified)

MH Nursing/CYC Progress Note Entered On: 2022-Mar-23 11:13
Performed On: 2022-Mar-23 14:50 by Shamou, Miriam RN

MH Nursing/CYC Progress Note

MH Nursing/CYC Progress Note : 0730-1530

Patient was awake at shift change. She was calm. Compliant with care on approach. Her heart rate was 104. She denied symptoms. She refused her am medication. She stated that her mood was "Lower" because she was seen by her MRP, and was told she would be discharged on Friday rather than Monday. She was circumstantial in thought process, and vague in conversation. Reactive. She endorsed thoughts of self harm, but did not give further information. She would change the subject to the death of her cat, and ruminate on life events such as the death of her parent. She denied perceptual disturbances.

She ate well for breakfast and lunch.

Acetaminophen 650mg administered PO as per patient's request. She stated that she had chronic pain, and rated the pain 8/10 (10=worst pain).

Shamou, Miriam RN - 2022-Mar-23 14:49

RRID: 38447338

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Mental Health Program Assessment Forms

Document Name: MH Nursing /CYC Progress Note - Text Document Status: Auth (Verified)

MH Nursing/CYC Progress Note Entered On: 2022-Mar-27 10:48
Performed On: 2022-Mar-27 13:17 by Zhao, Ban, RN

MH Nursing/CYC Progress Note

MH Nursing/CYC Progress Note : Patient was calm but guarded during interview, didn't answer most of the questions, fair appetite, watched TV in lounge. Took shower.

Patient was seen by psy-on-call, she was more reactive and happy after talked to doctor.

Did laundry.

Cellphone to be collected at hs.

Zhao, Ban, RN - 2022-Mar-27 13:17

RRID: 38447338

This was the Sunday before being thrown out. There was no point in answering the exact same questions yet again, making it the millionth time. I was exhausted and to be discharged the next day. I was exhausted in all the communicating I was sending out and it getting nowhere. I had given up hope. I was intent on suicide as soon as I got out and was trying to figure out a less excruciating experience to get it done. When on-call doctor said there would be another psychiatrist starting the next day I regained a bit of hope back.

(vii) Further Portions from the Record of Proceedings,
pgs. 607, 608, 611, 617, 619, 620, 621

TO BE NOTED: Unbiased rational common sense dictates that obviously the doctor knew the ICRC's decision on the case before the applicant. The Committee conclusively stated to the doctor that they have concluded the investigation and the Committee has decided that the doctor requires remedial education and the doctor accepted forthwith (of course, since she was relieved as to the guising and minimizing of her true wrongful acts, and the absence of appropriate accountability) and rushed submitting signing in a matter of days. All this was done without the knowledge of Ms. Welkoff. Upon her inquiries regarding the decision, she was misled by the reply from the investigator Ms. Tam who had just hour(s) before sent the decision to the doctor herself. It was known to Ms. Tam at that time the decision was made. The standard typed decision with reasons which would take some time for production was emailed almost three months later on July 28, 2023, when Ms. Welkoff received the outcome decision, however the decision and outcome was most obviously known to all except Ms. Welkoff three months earlier.

607

From: L W <lwhon4@gmail.com>
Sent: May 8, 2023 8:46 AM
To: Alyca Layacan
Subject: Re: CPSO - Notification of ICRC Date (Case ID: CAS-407893-N4F8R9)

Thank you for your email Alyca.
Elaine

Sent from my iPhone

On Apr 6, 2023, at 3:22 PM, Alyca Layacan <alayacan@cpso.on.ca> wrote:

Dear Ms. Welkoff,

I am writing on behalf of the Investigator Ms. Yuk-Ying Tam.

The Inquiries, Complaints and Reports Committee (the Committee) will consider this matter at its meeting on **May 9, 2023.** The Committee will assess and review this matter. As you are aware, the Committee does not meet directly with any party.

You will receive the Committee decision within 8-10 weeks of the meeting. Please be aware that staff cannot release the decision before then. In the rare event that the Committee defers their decision, we will contact you.

We will provide the Decision to you by secure email unless you inform us otherwise. Please inform us immediately of any change to your email address.

Thank you,
Alyca

Alyca Layacan ***(she/her)***
Investigative Assistant | Investigations and Resolutions
College of Physicians and Surgeons of Ontario
80 College Street | Toronto, Ontario | M5G 2E2
T: 416-967-2600 | 1-800-268-7096
www.cpso.on.ca

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608

From: Yuk-Ying Tam
Sent: May 9, 2023 10:19 AM
To: Leigh Solomon
Subject: College of Physicians and Surgeons of Ontario CAS-407893-N4F8R9

IsCopy: False
MessageID: 1a8946be-49f3-46ff-960e-71e306cafdd9

Dear Dr. Solomon:

As you are aware, the Committee met today to consider this matter. I am forwarding documents to you via OneDrive.

The OneDrive email may go to your spam/trash box.

Access OneDrive on your computer, not your cell phone. When accessing OneDrive, you will receive an auto generated email providing you with a verification code. This email may also go straight to your spam/trash box.

Contact me if you experience difficulties.

Thank you for your assistance.

Sincerely,

Yuk-Ying Tam ***(She/her)***
Investigator | Investigations and Resolutions
The College of Physicians and Surgeons of Ontario
T: 416-967-2600 | 1-800-268-7096 ext. 347
80 College Street | Toronto, Ontario | M5G 2E2

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CPSO

Trusted Doctors
Providing Great Care

IN REPLY PLEASE QUOTE FILE: CAS-407893-N4F8R9

May 9, 2023

Via OneDrive

PRIVATE AND CONFIDENTIAL

Dr. Leigh Solomon
E-mail

Dear Dr. Solomon:

As you are aware, the Inquiries, Complaints and Reports Committee of the College (the "Committee") considered a matter today regarding your care of a patient at the North York General Hospital in March 2022.

Based on its review of the information submitted, the Committee is of the view that you need to improve on your knowledge in the following areas:

- Risk factors and management of personality disorders and persistent depressive disorders
- Discharge planning

The Committee determined that a Remedial Agreement was the appropriate disposition in this matter, as outlined below.

Remedial Agreements

By entering into a Remedial Agreement, you are committing to engage in a self-directed educational process to address the needs identified by the Committee. The College recognizes that when learning needs are identified, they can be used to focus self-directed educational planning. Individuals approach learning needs in different ways,

CPSO

Trusted Doctors
Providing Great Care

Remedial Agreement

I, Dr. Leigh Solomon, certificate of registration number (52416), understand that the Inquiries, Complaints and Reports Committee of the College (the "ICR Committee") has considered the matter bearing file number (CAS-407893-N4F8R9) regarding the care of a patient at the North York General Hospital in March 2022.

Further to this matter, I understand the Committee's concerns and agree that I would benefit from remedial work with respect to my knowledge in the following areas:

- Risk factors and management of personality disorders and persistent depressive disorders
- Discharge planning

I commit to participating in self-directed educational efforts to address these concerns.

Self-Study Report

I will follow up by submitting a typed self-study report (approximately 2,000 words), complete with references of any material reviewed, to the College within 4 months of the date I sign this Remedial Agreement. The report will include a description of the educational activities that I undertook to address the learning need, a summary of what I have learned, and an indication of how I have changed or plan to change my practice based upon this activity.

I understand that my self-study report will be reviewed by a staff member of the College, and if there are ongoing concerns as a result of that review, this matter will be taken back to the ICR Committee for consideration.

I understand that the payment of any and all costs arising from this Remedial Agreement is my sole responsibility.

Dated at TORONTO this 17 day of MAY 2023YYYY.

Dr. Leigh Solomon

619

From: ICRC Support
To: "lwhon4@gmail.com"
Subject: CAS-407893-N4F8R9, ICRC Cover Letter and Decision
Date: July 28, 2023 10:42:41 AM
Attachments: image001.png

Dear Ms. Welkoff:

Please find the link to the Inquiries, Complaints and Reports Committee (ICRC) cover letter and Decision from its meeting on May 9, 2023.

ICRC Decision

For security purposes, once you click on the ICRC Decision link, you will be requested to enter a Microsoft OneDrive verification code that will be sent to you via a separate email from Microsoft Notifications. If you do not receive the email with the code right away, please check your junk email box.

Thank you.

Regards,

Committee Support

The College of Physicians and Surgeons of Ontario

80 College Street | Toronto, Ontario | M5G 2E2

TRUSTED DOCTORS PROVIDING GREAT CARE

CONFIDENTIALITY NOTICE: *This email, including any attachments, is confidential and may be privileged. No rights to that privilege are waived. Only the intended recipient is authorized to read or use this email. If you are not the intended recipient, please notify the sender immediately and permanently delete this email, without copying, printing or disclosing it.*

sn

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CPSO

Trusted Doctors
Providing Great Care

In reply please quote: CAS-407893-N4F8R9

PRIVATE AND CONFIDENTIAL – Sent via Email

July 28, 2023

Ms. Elaine Welkoff

Dear Ms. Welkoff:

Re: Complaint Regarding Dr. Leigh Solomon

The Inquiries, Complaints and Reports Committee (the "Committee") of the College of Physicians and Surgeons of Ontario has now considered your complaint. The Committee made its decision after a careful review of all relevant information gathered during the investigation. A copy of the Committee's written decision and reasons is enclosed.

If you believe that the Committee's investigation was inadequate, or its decision was unreasonable, you can request a review by the Health Professions Appeal and Review Board (HPARB). HPARB, a body created by the government of Ontario, is entirely independent and separate from the College.

You must make any request for a review directly to HPARB, and not to the College. Address your request to:

Health Professions Appeal and Review Board
151 Bloor Street West, 9th Floor
Toronto, ON M5S 1S4
Tel: 416-327-8512 Fax: 416-327-8524 E-mail: hparb@ontario.ca
HPARB website: http://www.hparb.on.ca/

If you are requesting a review, please ensure you include the College file number, the full names of the parties, the ICRC decision and its cover letter**.** Please note that your right to ask for a review expires 30 days after the date you receive this letter.

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CPSO

Trusted Doctors
Providing Great Care

If either party appeals this decision, HPARB will contact the College to confirm your address. We will provide HPARB with the contact information that you have provided to us during the course of the investigation.

Sincerely**,**

OFFICIAL COPY

The Inquiries, Complaints and Reports Committee

/sn
encl.

(viii) Relevant portions from Applicant's responding motion to HPARB motion

Déposé par voie électronique : 18-Feb-2025
urt of Justice / Cour supérieure de justice

PART I - OVERVIEW

1. This Responding motion record is filed in response to the motion being brought by the respondent HPARB for an order sealing CPSO records of investigation and HPARB records of proceedings and a publication ban of said documents.

2. HPARB *arbitrarily* sealing and publication banning and *arbitrarily selectively* choosing what will and will not be available to the public is improper. There are no grounds to justify such non-transparency and it would be highly prejudicial, unfair, and detrimental to the Applicant, as well as detrimental to the general public. As well, it is adding a burden for the court and the Applicant unjustifiably, unreasonably and wrongfully, by making the process more difficult and time consuming as the complaint and review investigations and proceedings records are the materials required to be used for the judicial review applications materials and the hearing, and as well Case Center cannot be used because materials subject to sealing or publication bans cannot be uploaded to Case Center. There are no legitimate grounds for HPARB to be acting so frivolously and vexatiously based on the Respondents' own preference to be as non-transparent as possible in order to protect themselves (wrongfully). If HPARB and CPSO have nothing to hide then be transparent. This is being done by HPARB in order to *arbitrarily* manipulate public information how they personally wish, and misleading can be the result, which can be very harmful. This is unethical of the Board, and is highly prejudicial and harmful to the Applicant.

3. The Applicant is against such extreme sealing, confidentiality, and publication ban orders. Pursuant to Section 36 (1) (j) of the *Regulated Health Professions Act*, 1991, S.O. 1991, c. 18, Section 36 (1) the Applicant consents to information relating to herself be disclosed (other than the hospital records). The Board, CPSO and the doctor are not above the laws the rest of us are required to follow.

4. Accordingly, the Applicant seeks an Order dismissing the HPARB's motion, and respectfully seeks an alternate Order to be made by this Honourable Court.

éposé par voie électronique : 18-Feb-2025
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PART II - THE FACTS

(A) Background

4. The Applicant is a Canadian citizen and member of the public with inherent rights.

5. The Applicant wrote about her experience (**Exhibit "A"**) at NYGH for her own file and that has been made public and provided to many of the public. She made her concerns known to CPSO by sending those concerns regarding the unprofessional behaviour, seriously harmful professional misconduct, reckless and baseless "diagnosis", and highly fraudulent acts, subsequent effects, etc., of the Respondent Dr. Leigh Solomon. The ICRC issued a decision and disposition which the Applicant disagreed with on the basis that it did not coincide with the very serious issues of the complaint, the facts, concerns of the committee, nor with the harmful and deadly consequences for the Applicant (including risk of life), and the danger to other members of the public, among other concerns. She requested a review by HPARB. She sent written and verbal information detailing how the doctor's notes in the hospital records as well as the doctor's responses to the Board were complete falsehoods about what occurred. HPARB issued a decision. The Applicant disagreed of course with the decision based on the legitimate serious factors as outlined. Hence now the Application for Judicial Review. The Applicant also noticed miswriting in the Board's published decision, i.e. the Board miswrote the correct "As far as premature discharge, that was also not the problem. If things were handled appropriately based on the facts and truths and based on proper attitudes and behaviours by the doctor etc. then discharge could have occurred most likely even sooner" as "The premature discharge was not the problem. It was the awful, harmful discharge occurrence that was totally unacceptable which are two totally different things. (The awful "discharge" experience was another different aspect "the extremely awful and harmful "discharge" occurrence was totally unacceptable, that has not even been addressed by the Committee"); i.e. the Board miswrote the correct "I (the applicant) was not allowed to speak" as "(the dr.) did not really listen" which have two totally different meanings. Obviously it is quite clear why public access to all relevant information is important, and these are just examples of the miswriting in the published decision. Of course the very serious harmful experience and the fraud written from the doctor is even far worse.

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11. In regard to the aspect regarding Dr. Solomon's physician record with the College, the Board decided to not release it to the Applicant. The Board has stated the Board's non-disclosure order was not challenged before the Board nor is it challenged in the Notice of Application for Judicial Review. This is unreasonable. It is also not completely true. It is unreasonable on the basis that concurrently at that time the Applicant was literally unable to. It is a miracle she could even submit the complaint and carry on with it at all, but she had to. It is extremely unreasonable and unfair to expect that an individual who is concurrently going through a serious traumatic-ridden crisis time in her life, and also given the reasons at the time for submitting the complaint, would be able to bring up a concern about the non-disclosure order. Also, the applicant is not a lawyer, or someone who was experienced with CPSO or HPARB matters, was totally unfamiliar with the complaint process and with the HPARB process at the time. It is unreasonable for anyone to suggest that the individual was expected to have all that particular knowledge or to crash course in it and the ability to add that to her fight at that traumatic time in her life. No notice was properly given to the Applicant that she could request reconsideration of that order or "challenge" it. She did not think she had any choices to pursue regarding that order. Obviously, even if she did, they would not have done anything about it anyway, just as they did nothing about the Applicant's disagreement and contesting about the confidentially and publication ban orders. To be noted, they are *still* adamant about that even with knowing again and very profoundly the Applicant's position. The Applicant was very strong in this fight and continues to be, but that assumption by HPARB or anyone that the Applicant should have "challenged" that non-disclosure order at that time is going to the irrational and unreasonable point. Also, it is not completely true that the Applicant did not challenge it at all. Again, she is not an expert in these matters, and just because she may not have verbally or in writing stated the exact wording, no one should take advantage of that. As well, the HBARB has double standards. If they are claiming HPARB did not have enough notice to counter any objection, then the same should apply to the Applicant regarding the confidentiality and publication ban orders. She had no idea those orders were the plan of HPARB. The Applicant did directly send notice of objection when she finally was made privy to those orders.

Despite any of the above, the type of information/material about a doctor is not to be sealed, confidential or publication banned (at least not in it's entirety and nothing at all reported to the public).[1]

12. HPARB seeking an order that "upon counsel for the Applicant *(should she retain counsel*), and counsel for the Respondents, filing with the court an undertaking (in the form identified as Appendix 2 to HPARB's draft order), the Board shall provide such counsel with a copy of the physician profile and prior decisions etc.)" is basically purposeless, and unreasonable. The responding parties already were and are familiar with the doctor's College file and prior decisions, remedial and cautions, etc. As well, it is *knowingly* unreasonable and unfair of HPARB to include the Applicant only if *"should she retain counsel*". Unfairness, indifference to, taking advantage of, the reality - the fact is there is no such thing as counsel for the Applicant. The Applicant is "counsel" for the Applicant.

13. In regard to the confidentiality and publication ban order, upon submission of the Applicant's complaint against the doctor I was aware that the CPSO decision would be published on CanLii (even though I noticed when issued the decision was not published, and wondered why not? It was improper that it was not. It was not published on CanLii until the HPARB decision was made). I never requested any type at all of "publication ban" regarding an upcoming CPSO decision. I did not care about anonymity, or if my name was published (there is documented proof of a phone discussion September 6, 2022 which included this). As a matter of fact I agree with transparency. As well, HPARB was not involved yet before the CPSO decision and it was not known yet whether they would be.

14. During a discussion with a member of HPARB, it was mentioned to me that my initials could be used rather than my full name. I replied that it would not be right if names were not used because this type of seriousness should not be kept from the public. She replied that she was talking about my name, not the doctor's name, that the doctor's full name by law has to be written. I replied I did not care about my name. After that point of her mentioning about initials, I

(ix) (16) Decision of Nakatsuru, J

From: Div Court Schedule DivCourtSchedule@ontario.ca
Subject: RE: URGENT Immediate Attention Confirmation Required: ELAINE WELKOFF v HPARB ET AL - DIVISIONAL COURT FILE NO. DC-24-00000525-00JR
Date: Mar 6, 2025 at 3:08:34 PM
To: Steven Bosnick sbosnick@wjm-law.ca
Cc: SCJ-CSJ Div Court Mail (JUD) scj-csj.divcourtmail@ontario.ca, L W lwhon4@gmail.com, Catherine McDonnell cmcdonnell@cpso.on.ca, Ruth Ainsworth rainsworth@cpso.on.ca, Pellegrino, Eric epellegrino@mccarthy.ca, Div Court Schedule DivCourtSchedule@ontario.ca

Hello,

After the hearing of March 6, 2025, Justice Nakatsuru directs me to advise the parties of the following:

Endorsement

The motion for a sealing order and publication ban by HPARB, originally to be in writing, was heard orally before Justice Nakatsuru. The motion was allowed in part. Justice Nakatsuru reserves the right to release more extensive written reasons if he deems it appropriate.

HPARB seeks a sealing order for two categories of records in its record of proceedings and a ban on the publication of Ms. Welkoff's identity in the judicial review application. It seeks to preserve the status quo of the orders made by HPARB in the proceedings.

Justice Nakatsuru orders the following:

1. Regarding the records relating to Dr. Solomon as found in Appendix 1, they are ordered sealed subject to the undertakings provided by counsel. Concern was raised about self-represented applicants. However, after inquiry, Ms. Welkoff takes no objection to the sealing of these records. The Divisional Court panel will have these records when the judicial review application is heard on May 28, 2025, and Ms. Welkoff is entitled to ask the Court to review these records to advance any argument she wishes based on their existence. The opportunity to bring a motion to seek access to these records in advance was offered to Ms. Welkoff, but she declined given that the sealed records will be before the Court and such a motion may delay the application.
2. Regarding the records as found in Appendix 3 dealing with the investigation of Ms. Welkoff's complaint, the only records to be sealed will be the hospital records of the North York General Hospital relating to Ms. Welkoff. Ms. Welkoff already has these records.

Given the privacy concerns, the public should not have access to these records. With respect to the remaining records in Appendix 3, while HPARB made an initial sealing order, having regard to all the circumstances, including Ms. Welkoff's consent to their being made public, in balancing the salutary effects of disclosure against the potential prejudice, including systemic concerns, Justice Nakatsuru finds that on the case-specific facts here, the remaining records in Appendix 3 need not be sealed.

3. Regarding the publication ban of Ms. Welkoff's name and any identifying feature, Ms. Welkoff consents to public release of this. She urges openness and transparency in the judicial review application process. Again, in balancing the salutary effects of disclosure against the potential prejudice, including systemic concerns, Justice Nakatsuru finds that on the case-specific facts here, the ban is not warranted. Thus, this order will not be made.

Justice Nakatsuru will sign the draft order that will be prepared by HPARB upon receipt.

Case Management

The Hearing Date of May 28, 2025, will be maintained. However, the schedule for perfecting the judicial review application will be modified to the following:

Applicant's materials: March 30, 2025
Respondent Solomon materials: April 28, 2025
CPSO and HPARB materials, if any: May 5, 2025

Thank you,

(x) Divisional Court's post-hearing direction

(ibid)

From: Div Court Schedule DivCourtSchedule@ontario.ca
Subject: RE: ELAINE WELKOFF v HPARB ET AL - DIVISIONAL COURT FILE NO. DC-24-00000525-00JR
Date: Jun 30, 2025 at 9:49:42 AM
To: Div Court Schedule DivCourtSchedule@ontario.ca, Ruth Ainsworth rainsworth@cpso.on.ca, L W lwhon4@gmail.com, Steven Bosnick sbosnick@wjm-law.ca, Pellegrino, Eric epellegrino@mccarthy.ca
Cc: SCJ-CSJ Div Court Mail (JUD) scj-csj.divcourtmail@ontario.ca, Catherine McDonnell cmcdonnell@cpso.on.ca, Georgina Rideout GRideout@wjm-law.ca

Good morning,

The panel directs as follows:

Further to the hearing of this matter, the Panel would like the Caution produced, subject to hearing any submissions to the contrary.

Further, the issue of protection of the public in the transparency of these proceedings as reflected in the Protection of Patients Act was not addressed at the hearing or in the parties' factums. The Panel asks that the parties make written submissions no longer than 3 pages each addressing how 1) having a remedial agreement that is not posted on the College's website, given the prior Caution with the same issue, protects the public interest in transparency reflected in the Protection of Patients Act; and
2) what the remedy should be if we find that the decision was unreasonable, i.e. whether to require the posting of the notice (and if so, how that fits into the requirements under the *Protection of Patients Act*) or send it back, to HPARB or the ICRC.

Ms. Welkoff may have until July 14, 2025, to make her a submission if she wishes to do so and the respondents' submissions shall be by made by July 28, 2025.

Regards,

Abrinia Babcock
Panel Coordinator
Superior Court of Justice – Divisional Court
Osgoode Hall, Room 174
130 Queen Street West
Toronto, ON M5H 2N5

From: Div Court Schedule <DivCourtSchedule@ontario.ca>
Sent: Thursday, April 24, 2025 1:32 PM
To: Div Court Schedule <DivCourtSchedule@ontario.ca>; 'Ruth Ainsworth' <rainsworth@cpso.on.ca>; L W <lwhon4@gmail.com>; Steven Bosnick <sbosnick@wjm-law.ca>; Pellegrino, Eric <epellegrino@mccarthy.ca>

(xi) HPARB's email to the court

From: Steven Bosnick sbosnick@wjm-law.ca
Subject: RE: Welkoff v. HPARB - File No. 525/24
Date: Jul 7, 2025 at 1:25:55 PM
To: Div Court Schedule DivCourtSchedule@ontario.ca, SCJ-CSJ Div Court Mail (JUD) scj-csj.divcourtmail@ontario.ca
Cc: L W lwhon4@gmail.com, Pellegrino, Eric epellegrino@mccarthy.ca, Catherine McDonnell cmcdonnell@cpso.on.ca, Georgina Rideout GRideout@wjm-law.ca, Kimberly Baptiste KBaptiste@wjm-law.ca, Caitlin Miller CMiller@wjm-law.ca, David Jacobs djacobs@wjm-law.ca, Ruth Ainsworth rainsworth@cpso.on.ca

Ms. Babcock:

I am emailing the Court to respond to the panel's request to produce the caution, subject to hearing any submissions to the contrary.

On March 13, 2025, we filed the "Record of Proceedings Private – Respondent – HPARB -12 DEC 2024" with the Court by email. This document was filed in sealed form pursuant to the March 6, 2025, order of Justice Nakatsura (attached). The Court responded to our email message saying, "This has been received and filed in a sealed folder."

The caution is found on pages 1 to 5 of the private record (the same document also appears on other pages of the private record).

If the panel has further concerns about receiving a copy of the caution then we request further directions (and an opportunity to make submissions on those directions).

Steven G. Bosnick, B.Math, M.A., LL.B
Managing Partner

WATSON JACOBS BOSNICK LLP
BARRISTERS & SOLICITORS
4711 Yonge Street, Suite 509
Toronto, Ontario
M2N 6K8
Tel.: 416.226.0055 x131
Fax: 416.226.0910
Email: sbosnick@wjm-law.ca
Web: www.wjm-law.ca

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P **Please think green before printing this email**

(xii) Case Center usage notification

From: Div Court Schedule DivCourtSchedule@ontario.ca
Subject: RE: ELAINE WELKOFF v HPARB ET AL - DIVISIONAL COURT FILE NO. DC-24-00000525-00JR
Date: Apr 24, 2025 at 1:32:28 PM
To: Div Court Schedule DivCourtSchedule@ontario.ca, Ruth Ainsworth rainsworth@cpso.on.ca, L W lwhon4@gmail.com, Steven Bosnick sbosnick@wjm-law.ca, Pellegrino, Eric epellegrino@mccarthy.ca
Cc: SCJ-CSJ Div Court Mail (JUD) scj-csj.divcourtmail@ontario.ca, Catherine McDonnell cmcdonnell@cpso.on.ca, Georgina Rideout GRideout@wjm-law.ca

Good afternoon,

The above-referenced hearing is scheduled to proceed on **June 26, 2025 @** 10:00 AM in Courtroom 3 at Osgoode Hall, 130 Queen Street W. Toronto.

In preparation for your **in person** hearing please be advised that you will be viewing your materials on Case Centre. You must therefore bring a personal electronic device, e.g. a laptop or iPad, by which you can view and navigate in Case Centre using Wi-Fi.

In order to access Case Centre at the time of the hearing, OPS Guest Wi-Fi is available in the courthouse to provide "Parties to a Matter" with access to the internet during their hearing. This Wi-Fi service requires authentication via Guest Accounts with specific user name and password. There is a process that the parties need to follow 72 business hours in advance of the hearing date to obtain access to the Guest OPS Wi-Fi. If you previously obtained an account, please note that these accounts expire 6 months after activation. After that time you must re-apply.

The Ministry has been working to improve the ability of counsel and parties to a matter to obtain an "OPS Guest" Wi-Fi account. As part of this process, they have developed a digital application parties can fill out online so that the application can get immediately directed to the appropriate channel.

This application is available online at: Ontario Public Service (OPSGuest) Wi-Fi Account Application (office.com)

A link to this digital application is also available on the Ontario Court Forms website, which contains additional information regarding how parties can connect to Wi-Fi when at the courthouse: https://ontariocourtforms.on.ca/en/opsguest-wi-fi-forms/

Parties can request alternative formats or assistance on registering for a Guest Wi-Fi account by contacting wifi@ontario.ca.

If you do not have access to a personal device to bring to court, please advise the trial

(xiii) Written submissions of Ms. Welkoff pursuant to the Divisional Court Panel's post-hearing direction

WRITTEN SUBMISSIONS OF THE APPLICANT ELAINE WELKOFF
pursuant to the Panel's direction of June 30, 2025

I, Elaine Welkoff, (the Applicant Re: DC-24-00000525-00JR), submit as follows:

1) Re: Posting on College's register/website
Transparency, Protection of Patients Act, Protection of the Public

I believe in forgiveness to doctors when the doctors genuinely cared and tried; when there was no misconduct; when there was no negligence; when there was no blatant incompetence; etc.; and when there was his/her following of the CMA Code of Ethics …and yet the outcome for a patient is still bad. Doctors are not superhuman. There is even no reason that "forgiveness" is necessary because they would have nothing to be *forgiven* for. It would entail *understanding*. However, *it is an entirely different matter when the opposite occurs* coming from a doctor.

I know the severe pain and suffering state I was in already and why. I know what I then experienced from this doctor and also because of this doctor. I know how it all exacerbated my state. The fact that it was not a doctor at all who cared and tried; that it was a doctor who actually inflicted mental and emotional abuse on a patient who was already *seriously* struggling; as well as the fact that the doctor deliberately wrote false information in her notes in hospital records/an individual's personal health information file, which caused great harm and *ongoing* subsequent harm in many serious ways, makes a *tremendous difference*. Such a doctor is a very seriously dangerous life threatening psychiatrist doctor.

Hence, the very important matter of and need for transparency.

A remedial education remedy (however *only* if it *legitimately* applies to the case at hand, and if not it would be detrimental to the ex-patient if posted) that is not posted on the College's register/website as well as a previous caution not posted goes against protecting the public interest, and does not protect the public interest in transparency reflected in the Protection of Patients Act. The matters for transparency have nothing to do with the "privacy" of any doctors involved. These matters are to do with public/patients/ex-patients' health, including life and death matters. It is not a doctor's personal privacy issue. It is also not only a doctor's "College *administrative* file" (as was attempted claimed by the respondents in this matter). Nor is it a matter of (if posted) the worst harm would come to the doctors, especially in cases where it was the doctor's own choice to *do the wrongs.* In serious cases (if not posted) the worst harm would actually come to the patients/ex-patients/future patients.

Protecting the public interest through transparency requires the readily available information as to serious matters in regard to doctors. When there is a pattern of a particular type of attitudes, conduct, behaviour, actions from a doctor, then that transparency is even more important. I believe and submit that each case is an *individual* case in regard to *individual* doctors. Regarding this doctor, and the seriousness, transparency is not only in the best interest of the public but is vital, and constitutes justifiable required transparency for protection of the public/patients.

Protecting the public interest includes our health and life and death matters (which obviously doctors et al generally have a lot to do with) and is a universal concern, each and every one of ours. Therefore, *protecting the public interest* in transparency reflected in the *Protection of Patients Act* is in essence part of the same thing.

Transparency is a huge part of informing and educating people as to the pitfalls, and that awareness will help to protect them from the pitfalls, and will provide better awareness of all the options, what to try to avoid, and what would be in their own best interests to pursue. What *the public* speaks out and has spoken out about as to what they should be protected from (and is actually "genuinely" coming from them themselves) should be one of the most important factors in what is decided by those in power as to what protections *the public* requires. Quite logically, through real experiences, patients, ex-patients, their families, other advocates, and even *some* in healthcare themselves who *really* do care for the protection of the *public/patients*, is one of the most important and relevant information factors.

True transparency will promote a better culture of behaviours and attitudes in general amongst doctors et al which will protect the public/patients interest and strengthens the systems involved as a whole,

not the other way around. This is beneficial for any caring doctors and healthcare workers themselves as well.

It should be questioned about the methods of the choosing in regard to what constitutes cases that are the “most harmful” or the “most serious” to public individuals/patients and what they need protection from. Also, as to what *actually* are the roots of systemic problems.

CPSO ICRC and HPARB have quite evidently many times even in VERY SERIOUS MATTERS/CASES only decided on remedial education (and to be noted even in some of the cases which they decided only on cautions) as the disposition of decisions which cases in reality obviously warranted stronger outcomes. Quite often even the remedial education does not even apply to the actual matters/cases at hand, the remedial education actually causing further misleading information. This inflicts even more harm on the ex-patients, and results in more danger to the public in general. To be noted as well, in obvious troubling serious cases, if a lesser degree of seriousness than the actual higher degree of seriousness and also not addressing the true main issues is done in order to allow a lesser impact outcome for the doctors is highly bias, unethical, and shows a great lack of concern for the well-being and protection of patients and ex/future patients and the public. A “remedial education” remedy decision as described is of no valuable use or a remedy at all, and actually accomplishes the opposite, being more harm and dangers in all aspects/respects.

To not address any cases as they actually were and are, the harm done, and to not address the true ongoing dangers, is in essence creating ticking bombs dangerous to patients/the public.

The fact that CPSO ICRC, in general, groups into one category (“remedial education” category) cases that are very serious matters along with quite less serious matters (even if the latter matters still warrant remedial education) is what constitutes having remedial education decisions that are not posted on the College’s register/website as being non-protection of patients/non-protection of the public interest, is dangerous, and is against the purpose of transparency reflected in the Protection of Patients Act. Obviously, there were and are legitimate and important concerns and serious reasons for the requirements of that transparency.

An important quote to be noted: “sunlight remains the best of disinfectants”, …and protection.

2) **<u>What the remedy should be if the Panel finds that the decision was unreasonable</u>**

Given the following:

a) that the main relevant issues/factors were: a doctor refusing *completely* to be a doctor to a patient; a doctor going against all of the Code of Ethics; and etc.; a doctor who committed writing deliberate falsehoods in her notes in hospital records; and a doctor who further wrote deliberate falsehoods in her responses (all of which actually constitutes true serious misconduct and includes even fraud), resulting in added very serious harm and dangers to that patient/ex-patient);

b) that the false information caused a rippling effect throughout not only the patient’s stay at NYGH but also in any further attempts at receiving appropriate help for the true inflictions going on with the individual;

c) that the main relevant complaint issues were actually guised by CPSO and HPARB to be of a different and lesser degree of a serious nature;

d) that it is only by pure chance, and for some unknown reason to the individual just how it can possibly be, that she (myself, Elaine Welkoff) is still alive today given all the particulars of all the occurrences; and

that considering all of the above, and also that in reality a more serious accountability from the doctor would be justifiable, I, Elaine Welkoff, submit that in response to the requested submission in point 2) of the panel’s direction, below is a very lenient submission as to what the remedy should be:

The remedy that was disposed by the Committee is outright highly unreasonable and also an error in law. Furthermore, when a committee/tribunal states there is no evidence to support a decision/remedy, but then makes that decision/remedy, it is especially highly unreasonable and an error in law. It only promotes even more harmful misinformation and variable types of ongoing harm upon the ex-patient. As stated, I am submitting that transparency is vital in regard to posting notices on the CPSO register/ website of any decisions regarding cautions and also remedial education **but along with that it *must be* and IT IS VITAL that the postings be TRUTHFUL transparency**. In regard to this case, the current remedial education is actually harmful to the ex-patient, and as well it would be harmful to any future patients and to the public, because it is based on falsehoods, and is not based on the real issues, and it would be further harmful for them if it was posted as such. ***The remedy needs to be rightfully changed from the unreasonable and erring-in-law current one to a reasonable and correct-in-law one*)** and based on the actual facts and evidence. *If based on the truth*, transparency needs to be readily accessible to the public. This is not *just* about me. I worry profoundly about others as well. Without **TRUTHFUL** transparency (in any cases) being accessible to the public, the likelihood of future harm (and worse) to innocent patients is ***greatly*** increased. Essentially, and quite logically, transparency is not transparency if it is disguised.

If I am being asked to submit "**what the remedy should be if the Panel finds the decision was unreasonable**", I respectfully submit that "if" *only* remedial education is what the remedy will be in this matter, it should not be according to what is against the evidence and even noted to be against the evidence by the ICRC, rather it should be remedial education that makes sense and would be reasonable and correct in law in this matter and as such the remedy should in the least be **the doctor requires education in the Canadian Medical Association Code of Ethics,** which covers, even if far too mildly in regard to this matter, the serious misconduct of Dr. Solomon; the total disrespect towards the patient; the illegitimate diagnosing; the discriminatory attitudes from the doctor; wrongful influence factors in the doctor's attitudes; the added mental and emotional anguish inflicted on the patient; the lies the doctor wrote in her notes and in her responses; the ongoing and subsequent harm; the disrespect and lack of concern for a patient's life; and all the other serious issues. **The remedy should also include** that the published decision of HPARB needs correcting as follows: there is no publication ban, therefore the statement that HPARB added in the *published* decision as follows: *"4. The Board issued a publication ban order in this matter. This decision is subject to that order."* needs to be removed. Even the illegitimate publication ban order that they attempted never included "the *published* decision is subject to that order". Adding that statement in a *published* decision is misleading. Also the following written statement from me: *"As far as premature discharge, that was also not the problem. If things were handled appropriately based on the facts and truths and based on proper attitudes and behaviours by the doctor etc. then discharge could have occurred most likely even sooner."* HPARB in the published decision miswrote it as follows: *"The premature discharge was not the problem. It was the awful, harmful discharge occurrence that was totally unacceptable"*. HPARB obviously changed my statement completely therefore obviously changed entirely the meaning of that statement of mine. These misleading miswritings by HPARB require correcting.

I respectfully submit that given that the CPSO, ICRC and HPARB were aware of and/or had the evidence, means and available information to realize all of the above yet still came to the decisions they did and remedial education remedy they came up with, and as well how their processes, procedures, and all the subsequent proceedings, etc. that were and are involved in this matter were as such as they have been and continue to be from CPSO and HPARB, I respectfully submit that sending it back to HPARB or the ICRC would just be futile and more ongoing harm to me, that those avenues have already been extremely exhausted to the point of no return and that it would only result in the identical or a further or even greater unfair and unreasonable outcome thus the further ongoing harm upon me, et al.

I hope that I understood what the Panel directed and the submissions the Panel asked for from me. If further direction or instruction is required to be given me, I am of course willing to abide if there is a requirement of me to address the Panel's direction further.

Dated: July 11, 2025

Elaine Welkoff

(xiv) HPARB decision -

https://www.canlii.org/en/on/onhparb/doc/2024/2024canlii74262/2024canlii74262.pdf

NOTE: AS PER COURT ORDER THERE IS NO PUBLICATION BAN ON IT. HPARB NEEDS TO REMOVE THAT STATEMENT IN THE DECISION.

TAB 6

SCHEDULE A

AUTHORITIES

1. ***Vavilov and Minister of Citizenship and Immigration,*** **2019 SCC 65**

***Vavilov and Minister of Citizenship and Immigration*, 2019 SCC 65, at para. 127 (e)**

> **"(e) Submissions of the Parties**
> **The principles of justification and transparency require that an administrative decision maker's reasons meaningfully account for the central issues and concerns raised by the parties. The principle that the individual or individuals affected by a decision should have the opportunity to present their case fully and fairly underlies the duty of procedural fairness and is rooted in the right to be heard: Baker, at para. 28. The concept of responsive reasons is inherently bound up with this principle, because reasons are the primary mechanism by which decision makers demonstrate that they have actually listened to the parties." [Emphasis's added]**

***Vavilov*, ibid, at para. 128**

> **"…However, a decision maker's failure to meaningfully grapple with key issues or central arguments raised by the parties may call into question whether the decision maker was actually alert and sensitive to the matter before it. In addition to assuring parties that their concerns have been heard, the process of drafting reasons with care and attention can alert the decision maker to inadvertent gaps and other flaws in its reasoning:**
> **Baker, at para. 39." [Emphasis's added]**

***Vavilov*, ibid, at para. 102**

> "To be reasonable, a decision **must** be based on reasoning that is both rational and logical. It follows that a failure in this respect may lead a reviewing court to conclude that a decision must be set aside. Reasonableness review is not a "line-by-line treasure hunt for error": *Irving Pulp & Paper*, at para. 54, citing *Newfoundland Nurses*, at para. 14. **However**, the reviewing court **must** be able to trace the decision maker's reasoning without encountering any fatal flaws in its overarching logic, and it **must** be satisfied that "there is [a] line of analysis **within the given reasons** that could reasonably lead the tribunal **from the evidence before it** to the conclusion at which it arrived": *Ryan*, at para. 55; *Southam*, at para. 56. Reasons that **"simply repeat statutory language, summarize arguments made, and then state a peremptory conclusion"** will rarely assist a reviewing court in understanding the **rationale** underlying a decision and **"are no substitute for statements of fact, analysis, inference and judgment"**: *R. A. Macdonald and D. Lametti*, "Reasons for Decision in Administrative Law" (1990), 3 C.J.A.L.P. 123, at p. 139; see also *Gonzalez v. Canada (Minister of Citizenship and Immigration)*, 2014 FC 750, 27 Imm. L.R. (4th) 151, at paras. 57-59." **[Emphasis's added]**

2. Kerans, Roger P. (the Honourable), Author, *"Standards of Review"* passage at pg. 44.

Kerans, Roger P. (the Honourable), Author, "Standards of Review"
(is quoted extensively by Canadian courts, including the Supreme Court of Ontario)

To be noted: "The fact that a below reviewer refers to some evidence to support their findings does not insulate those findings from **review by the Divisional Court.** The standard of review is reasonableness, not absolute deference."

> **"The key to the problem is whether the reviewer is to look merely for "evidence to support" the finding. Some evidence might indeed support the finding, but other evidence may point overwhelmingly the other way. A court might be able to say that reliance on the "some" in the face of the "other" was not what the reasonable tier of fact would do; indeed, it might say that, in all the circumstances it was convinced that to rely on the one in the face of the other was quite unreasonable. To say that "some evidence" is enough, then, without regard to that "other evidence" is to turn one's back on review for reasonableness.""**

3. *Vavilov* ibid, paras 73-85, 103,104, 108-114, 125-133

Vavilov ibid, para. 126; paras. 127-130

4. *Addison Chevrolet* Buick GMC Ltd. V. General Motors Canada Ltd., 2016, ONCA 324, paras. 25 and 45
Addison Chevrolet Buick GMC Ltd. v. General Motors Canada Ltd., 2016, ONCA 324

5. *Dulku v. Dulku*, 2017 ONSC 840, at paras. 28, 32
Dulku v. Dulku 2017 ONSC 840

6. *Montour v. Health Professions Appeal and Review Board*, 2019 ONSC 3451
Montour v. Health Professions Appeal and Review Board, 2019 ONSC 3451

7. *Bahniuk v. Attorney General of Canada*, 2016, FCA 127
Bahniuk v. Attorney General of Canada, 2016, FCA 127

8. *West Whitby Landowners Group Inc. v. Elexicon Energy Inc. and Ontario Energy Board*, 2024, ONCA 910
West Whitby, ibid

West Whitby Landowners Group Inc. v. Elexicon Energy Inc. and Ontario Energy Board, 2024, ONCA 910

[7] The respondents begin their opposition to the Landowners' leave application by pointing to the brief endorsement of this court in *Re Sault Dock Co. Ltd. and City of Sault Ste. Marie*, 1972 CanLII 572 (ON CA), [1973] 2 O.R. 479 (C.A.). They remind this panel that in applying *Sault Dock* the view has been taken that decisions of the Divisional Court – whether in the exercise of its original or appellate jurisdiction – are intended to be final and not reviewable by this Court save in exceptional cases. Over the years, the *Sault Dock* decision has been regarded, by some, as establishing a stringent test for leave to appeal.

[8] As often happens when certain judicial decisions take on the reputation as eternal pronouncements carved in tablets of stone, two unhealthy features work their way into the resulting jurisprudence.

[9] First, the flexibility of the canonical decision is forgotten in favour of a multi-factor test that can be applied easily by rote. The panel in *Sault Dock* recognized that "it may not be desirable to attempt to formulate a catalogue of the circumstances under which leave to appeal would be granted by this Court", as any such endeavour carries the risk of a judicial walk on thin ice. Which, no doubt, is why that panel described its list merely as suggesting "matters such as the following", a qualification that has been forgotten over the ensuing years.

[10] More significantly, before suggesting a list "such as the following", the panel identified the key consideration underpinning any decision to grant leave to appeal. Section 6(1)(a) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, provides that an appeal from an order of the Divisional Court lies, with leave, "on a question that is not a question of fact alone". The *Sault Dock* panel noted the consequence of that statutory limit: "Every decision of a Court is of importance to the parties affected but when no appeal is allowed on questions involving fact alone, then the importance of the decision to the individual is not to be the sole or perhaps the paramount consideration." The panel then continued:

It is rather the impact which the decision on the question will have on the development of the jurisprudence of Ontario. If the resolution of the question would largely have significance only to the parties and would not settle for the future a question of general interest to the public or a broad segment of the public, the requirements to obtain leave will not have been met. [Emphasis added.]

[11] Therein lies the heart of the consideration of an application for leave to appeal: not whether the issue falls into some pigeon-hole on a checklist, but "the impact which the decision on the question will have on the development of the jurisprudence of Ontario."

[12] Of the three levels of court in Ontario, it is the responsibility of the Court of Appeal for Ontario to monitor, clarify, and develop the jurisprudence of Ontario.

[13] In discharging that responsibility, the lens this court should bring to any question brought before it for leave mimics, with appropriate modification, the lens employed by the Supreme Court of Canada when considering its leave applications, namely:

Is the question on which leave is sought one that, by reason of its public importance, the importance of any issue of law or mixed law and fact involved, or for any other reason is of such a nature or significance that it ought to be decided by the Court of Appeal for Ontario?

If so, leave to appeal should be granted.

[14] The second unhealthy feature of continuing a slavish adherence to *Sault Dock*'s "checklist" approach is that it forgets the age of the *Sault Dock* decision. It's an old decision. So old, in fact, that it pre-dates the enactment of the *Canadian Charter of Rights and Freedoms*. The *Charter* now plays an important role in judicial review litigation before the Divisional Court, from which there is no right of appeal. The development of administrative law, and public law more generally, will often require the oversight of the Court of Appeal for Ontario.

[15] Turning to the present case, there is no secret that both the federal and provincial governments are pursuing polices to promote much greater use of electricity in the economy. There is no secret that the Ontario government is pursuing an aggressive policy to support the construction of more residential accommodation, including subdivision projects such as those being pursued by the Landowners. Against that backdrop, the question of whether some decisions of the state actor responsible for regulating the allocation of costs associated with the greater use of electricity are immune from judicial review is one of great public importance.

[16] Applying an updated and more flexible approach to the leave application before us, the Divisional Court's decision appears to insulate certain decisions of the Board from judicial review. This has impact well beyond the immediate parties in this case. It also has broader implications for the Ontario public and their economic interests. The questions on which the Landowners seek leave to appeal plainly merit consideration by this court.

[17] Consequently, we grant the Landowners leave to appeal from the decision of the Divisional Court on the following two issues:

(i) Did the Divisional Court err in finding that it lacked jurisdiction to consider the application for judicial review because (a) the Board did not exercise a statutory power of decision and (b) the Board's decision did not affect the legal rights, powers, or liabilities of the Landowners?

(ii) Did the Divisional Court err in finding that an order in the nature of *certiorari* was not available?

[18] The Landowners are entitled to their costs of this application fixed in the amount of $5,000, inclusive of disbursements and applicable taxes.

9. *Baker v. Minister of Citizenship and Immigration*, 1999 SCC 699, pg. 33 of 51 (5)
Baker v. Minister of Citizenship and Immigration, 1999 SCC 699

10. *Sorger v. Bank of Nova Scotia*, 1998 ON CA 3715
Sorger v. Bank of Nova Scotia, 1998 ON CA 3715

"Civil procedure -- Trial -- Trial judge's conduct establishing reasonable apprehension of bias -- New trial ordered."
"Held, the appeal should be allowed and a new trial ordered."

"Every litigant, even one with a tenuous case, is entitled to have its case fully presented and fairly considered. A trial will be unfair if the words or action of the presiding judge would give rise to a reasonable apprehension of bias to an informed and reasonable observer. A finding of perceived bias depends upon a carefully considered analysis of the facts of the particular case, and the analysis may require an examination of a number of aspects of the proceedings, including prejudgment of issues, prejudgment of credibility, undue and one-sided interventions with counsel or in the examination of witnesses. A review of the trial in this case showed that these aspects were present. Further, the reasons for judgment did not show any analysis of the evidence nor consideration of any relevant jurisprudence. There was nothing in the judgment to indicate that the trial judge attempted to grapple fairly and impartially with the plaintiffs' case or decide it independently. The conduct of the judge raised a reasonable apprehension of bias. Accordingly, the plaintiffs' primary ground of appeal succeeded. There should be a new trial because, once a reasonable apprehension of bias has been found, the trial judge's findings cannot be used for a different result or to sustain the result appealed from. All the parties deserved a fair trial."

"The legal backdrop against which the conduct of the trial must be examined has been recently set out with great eloquence by Cory J. in R. v. S. (R.D.), 1997 CanLII 324 (SCC), [1997] 3 S.C.R. 484 at pp. 524 and 533, 151 D.L.R. (4th) 193:

Trial judges in Canada exercise wide powers. They enjoy judicial independence, security of tenure and financial security. Most importantly, they enjoy the respect of the vast majority of Canadians. That respect has been earned by their ability to conduct trials fairly and impartially. These qualities are of fundamental importance to our society and to members of the judiciary. Fairness and impartiality must be both subjectively present and objectively demonstrated to the informed and reasonable observer. If the words or actions of the presiding judge give rise to a reasonable apprehension of bias to the informed and reasonable observer, this will render the trial unfair. . . . . .

It is right and proper that judges be held to the highest standards of impartiality since they will have to determine the most fundamentally important rights of the parties appearing before them. This is true whether the legal dispute arises between citizen and citizen or between the citizen and the state. Every comment that a judge makes from the bench is weighed and evaluated by the community as well as the parties. Judges must be conscious of this constant weighing and make every effort to achieve neutrality and fairness in carrying out their duties. This must be a cardinal rule of judicial conduct.

Cory J. went on to elaborate the impartiality required of a trial judge and the bias to be abjured, in the following terms at p. 528:

[I]mpartiality can be described -- perhaps somewhat inexactly
-- as a state of mind in which the adjudicator is disinterested in the outcome, and is open to persuasion by the evidence and submissions.

In contrast, bias denotes a state of mind that is in some way predisposed to a particular result, or that is closed with regard to particular issues.

Finally, Cory J. cautioned that while the threshold for a finding of perceived bias is high, it depends entirely on a carefully considered analysis of the facts of the particular case.

As this court has said in the past, this analysis may require an examination of a number of aspects of the proceedings. Prejudgment of issues, prejudgment of credibility, undue and one-sided interventions with counsel or in the examination of witnesses, all may be relevant factors to consider: see Shoppers Mortgage & Loan Corp. v. Health First Wellington Square Ltd. (1995), 1995 CanLII 1069 (ON CA), 23 O.R. (3d) 362, 124 D.L.R. (4th) 440 (C.A.); J.M.W. Recycling Inc. v. Canada (Attorney General) (1982), 1982 CanLII 1947 (ON CA), 35 O.R. (2d) 355, 133 D.L.R. (3d) 363 (C.A.); Baker v. Hutchinson (1976), 1976 CanLII 738 (ON CA), 13 O.R. (2d) 591, 1 C.P.C. 291 (C.A.). So, too, may be the reasons of the trial judge: see R. v. S. (R.D.), supra.

In the end, as this court indicated in Shoppers Mortgage & Loan Corp., supra, one must consider the cumulative effect of all the relevant factors. Taken together, would they lead a reasonable and informed observer to have a reasonable apprehension of bias on the part of the trial judge and to conclude that there had not been a fair and impartial trial.

The standard of conduct required of a trial judge does not, of course, depend in any way on the merits of the cause. Even a litigant with a tenuous case is entitled to have it fully presented and fairly considered. This is a prerequisite of a dispassionate system of justice. In J.M.W. Recycling Inc., supra, this is made clear at pp. 362-63:

The trial judge obviously thought that there was no merit in the case, but even if a trial judge forms the view early in the proceedings that a party's case is weak, it is fundamental that every litigant have a fair trial. However well intentioned the trial judge may have been, his conduct in this case deprived the plaintiff of that fair trial to which it was entitled. . . . . .

The point was more eloquently stated in an Address of the Honourable Sir Robert Megarry, Vice-Chancellor of the Chancery Division of the High Court of Justice, as reproduced in 16 Alberta Law Review 406 at p. 410:

You may well wonder why I describe "brevity" as a temptation. Is it not a virtue in a judge for him to keep things short, to dispose of his cases quickly and so make inroads on the full and over-full lists of cases waiting to be heard? What merit can there be in not taking the shortest path that will bring about a proper decision in the case? These are cogent considerations, and they must be given due weight." It is in the context of these principles that we must turn to an examination of those aspects of the conduct of the trial judge in this matter that are cause for concern."

"The trial, unfortunately, got off on the wrong foot. The trial judge interrupted Mr. Davis's opening for the plaintiffs and directed him to begin by calling his evidence on mitigation to demonstrate the efforts taken to recover from the primary debtor. Counsel for the respondents did not ask for this and indeed expressed concern about proceeding in such a manner. Nonetheless, the trial judge went ahead as follows:

> With great respect, the two of you may be ad idem on this, but I'm running this trial. Normally I go along with what counsel agree on, but this may be just a waste of time.

He then said to Mr. Davis:

> [W]hat is appropriate, is for you to satisfy the court on evidence and argument -- and I'm not prejudging you in any sense -- that your clients have taken all the reasonable steps to recover against the principal debtors, and if they have, then certainly this trial can proceed. But otherwise, if they haven't, I just think it's an abuse of the -- as I indicated in chambers, it's an abuse of the process of the court, to put a bank and a lawyer on the defence for a matter which, if, conceivably, they might have recovered, this whole trial would be unnecessary.

It was inappropriate to require the plaintiffs to begin in this way. While the trial judge reversed himself the next day and rescinded this decision, the episode is a part of the ultimate apprehension created by the conduct of the entire trial.

This preoccupation with the plaintiffs' case wasting the court's time appears again and again through the transcript. The trial judge made clear to plaintiffs' counsel on a number of occasions that he thought counsel was wasting the court's time or that counsel was "spinning his wheels". No such criticism was offered of other counsel.

It was clear from the beginning that this trial would turn very much on credibility. The appellant Martha Sorger was the key witness for the plaintiffs. Early in her evidence-in-chief the trial judge indicated that he found her evidence incredible. The following examples make clear his prejudgment of her credibility:

> "The Court: Can't you answer the question shorter than this without giving us a 15-minute speech? Listen to the question and try to answer it shortly.
>
> The preceding transcript provides no basis for this criticism."

"The final factor for consideration springs from the reasons for judgment. This was a lengthy trial. The reasons for judgment are 128 pages. The first one and one-quarter pages simply identify the parties and set out the issues. The following 124 and three-quarter pages simply reproduce the written submissions of the parties. In the final two pages, the trial judge enumerates 29 bald findings of fact, all taken verbatim from the respondents' material."

"The judgment ends without any analysis of the evidence and with no consideration of any relevant jurisprudence. There is nothing to indicate that the trial judge attempted to grapple fairly and impartially with the case presented by the plaintiffs or decide it independently. Apart altogether from the legal obligation, if any, on a trial judge to give reasons, the form of the judgment here is an important factor in the apprehension left by the trial."

"Taking the factors we have referred to together, the cumulative effect is, in our view, unfortunately clear. A reasonable and informed observer would have a reasonable apprehension that the mind of the trial judge was closed to a fair and impartial consideration of the appellants' case. There is a reasonable apprehension of bias. The appellants' primary ground of appeal must succeed."

"The significance of a reasonable apprehension of bias was considered by this Court in Newfoundland Telephone Co. v. Newfoundland (Board of Commissioners of Public Utilities), 1992 CanLII 84 (SCC), [1992] 1 S.C.R. 623, at p. 645:

As I have stated, it is impossible to have a fair hearing or to have procedural fairness if a reasonable apprehension of bias has been established. If there has been a denial of a right to a fair hearing it cannot be cured by the tribunal's subsequent decision. A decision of a tribunal which denied the parties a fair hearing cannot be simply voidable and rendered valid as a result of the subsequent decision of the tribunal. Procedural fairness is an essential aspect of any hearing before a tribunal. The damage created by apprehension of bias cannot be remedied. The hearing, and any subsequent order resulting from it, is void. [Emphasis is La Forest and Cory JJ.'s.]

If that be true of a proceeding before an administrative tribunal it must apply with even greater force to a criminal trial.

The right to a trial before an impartial judge is of fundamental importance to our system of justice. Should it be concluded by an appellate court that the words or actions of a trial judge have exhibited bias or demonstrated a reasonable apprehension of bias then a basic right has been breached and the exhibited bias renders the trial unfair. Generally the decision reached and the orders made in the course of a trial that is found by a court of appeal to be unfair as a result of bias are void and unenforceable.

If this is true for administrative proceedings and criminal proceedings, it must be true for civil proceedings as well. It would be no better to inflict a different result from an unfair adjudication on the respondents than to sustain the result appealed from. All the parties deserve a fair trial.

In the result, we would allow the appeal, set aside the judgment below, and direct a new trial. There will be no costs of the appeal but costs of the first trial and the new trial are reserved to be in the discretion of the new trial judge.

Appeal allowed."

11. *Yukon Francophone School Board, Education Area #23 v. Yukon (Attorney General)*, 2015 SCC 25 (CanLII), [2015] 2 SCR 282, pages 2-4

Yukon Francophone School Board, Education Area #23 v. Yukon (Attorney General)

> "The test for a reasonable apprehension of bias is what would a reasonable, informed person think. The objective is to protect public confidence in the legal system by ensuring not only the reality, but the appearance of a fair adjudicative process. Impartiality and the absence of bias have developed as both legal and ethical requirements. Judges are required — and expected — to approach every case with impartiality and an open mind."; "several incidents occurred which, when viewed in the circumstances of the entire trial, lead inexorably to this conclusion"; "Viewed in the context of the entire record, the trial judge's conduct was troubling and problematic" "All of these incidents, taken together and viewed in their context, would lead a reasonable and informed person to see the trial judge's conduct as giving rise to a reasonable apprehension of bias."

12. *Stuart Budd & Sons Limited v. IFA Vehicle Distributors ULC*, 2016 ONCA 60, pgs. 11-14 - Analysis, The appearance of predisposition

Stuart Budd & Sons Limited v. IFA Vehicle Distributors ULC, 2016 ONCA 60

13. *University of Alberta v. Chang* 2012, pgs 6 - 10 - Sufficiency of Reasons

University of Alberta v. Chang

Sufficiency of Reasons

[15] It is unfortunate that the first ground of appeal asserted is that the chambers judge failed to engage in any meaningful analysis of the issues, and failed to provide reasons that disclose his reasoning.

[16] The chambers judge issued two sets of reasons. While it is not apparent on their face, a careful reading suggests that the one was intended to deal with the applications by Dr. Chang in both actions (2011 ABQB 595), and the other the applications by Radient in both actions (2011 ABQB 596). The chambers judge appears to have concluded that the applications should all be allowed for inordinate delay creating prejudice under R. 4.31, and that one or both of the actions against Radient should also be dismissed under the drop dead rule.

[17] The chambers judge followed his practice of cutting and pasting paragraphs from the briefs filed by the parties, having those paragraphs retyped, and then signing them as "Reasons for Judgment". The decision at 2011 ABQB 595 is 67 paragraphs long, and the decision at 2011 ABQB 596 is 78 paragraphs long. Counsel for the appellants provided a table showing the source of each paragraph:

(a) Every one of the paragraphs in the reasons was extracted, essentially verbatim, from the chambers briefs. There is no independent authorship. Even spelling mistakes in the briefs are faithfully carried forward.

(b) The Chang reasons at 2011 ABQB 595 incorporate all 32 paragraphs in the applicant Dr. Chang's chambers brief, and 42 of the 50 paragraphs in the University/AcuVector brief.

(c) The Radient reasons at 2011 ABQB 596 incorporate all 44 paragraphs in the applicant Radient's chambers brief, and all 35 paragraphs in Dr. Chang's brief in the AcuVector action, even though these reasons are apparently not intended to deal with Dr. Chang's application. Nothing was copied from the University/AcuVector brief, and there is therefore no reference to their arguments.

[18] The important place that trial courts hold in our judicial system was discussed in ***Housen v Nikolaisen***. The Court at paras. 16-8 identified the following three basic principles underlying the role of judges of first instance:

(1) Limiting the Number, Length and Cost of Appeals

16 . . . Substantial resources are allocated to trial courts for the purpose of assessing facts. To allow for wide-ranging review of the trial judge's factual findings results in needless duplication of judicial proceedings with little, if any improvement in the result. In addition, lengthy appeals prejudice litigants with fewer resources, and frustrate the goal of providing an efficient and effective remedy for the parties.

(2) Promoting the Autonomy and Integrity of Trial Proceedings

17 The presumption underlying the structure of our court system is that a trial judge is competent to decide the case before him or her, and that a just and fair outcome will result from the trial process. Frequent and unlimited appeals would undermine this presumption and weaken public confidence in the trial process. An appeal is the exception rather than the rule.

(3) Recognizing the Expertise of the Trial Judge and His or Her Advantageous Position

18 The trial judge is better situated to make factual findings owing to his or her extensive exposure to the evidence, the advantage of hearing testimony *viva voce*, and the judge's familiarity with the case as a whole. Because the primary role of the trial judge is to weigh and assess voluminous quantities of evidence, the expertise and insight of the trial judge in this area should be respected.

It is clear that judges of first instance are not mere scribes, collators of evidence, collage artists, or way stations on the road to justice.

[19] Deciding between competing adversarial positions is at the core of the judicial function, but so is explaining how the eventual result was reached. As the Court stated in ***R v Sheppard***, 2002 SCC 26 at para. 55.1, [2002] 1 SCR 869:

The delivery of reasoned decisions is inherent in the judge's role. It is part of his or her accountability for the discharge of the responsibilities of the office. In its most general sense, the obligation to provide reasons for a decision is owed to the public at large.

This fundamental judicial obligation cannot be discharged without the judge conducting an independent analysis of the case, and articulating it in appropriate form.

[20] The repute of the administration of justice depends in the end on litigants having confidence in and respect for the decisions that affect their rights, whether they won or lost. It is imperative that the litigants feel that they were fairly dealt with, that their arguments and evidence were considered, and that a principled, balanced, transparent, independent and impartial analytical process has been applied in reaching the final decision. To a great extent, whether these objectives are achieved depends on the reasons that are given in support of any particular result: ***R. v R.E.M.***, 2008 SCC 51 at para. 11, [2008] 3 SCR 3; ***Sheppard*** at para. 22; ***Cojocaru (Guardian ad litem of) v British Columbia Women's Hospital and Health Center***, 2011 BCCA 192 at paras. 124-7, 17 BCLR (5th) 253 leave to appeal granted [2011] 3 SCR vi.

[21] Previous decisions have commented on the problems that result when a chambers judge merely copies the briefs filed, rather than composing original reasons. Because they are prepared in an adversarial context, the briefs of the parties tend to be "one-sided". They generally tend to place the position of that litigant in the best possible light, and downplay (or even ignore) the arguments, authorities, and evidence in support of the opposite side. Merely copying those briefs often results in a failure to select in a judicial way from the evidence and legal authorities, with a resulting failure to assimilate the competing positions in a transparent and defensible manner.

[22] The following particular manifestations of this general problem result:

(a) when the parts of the reasons containing the eventual decision are extracted entirely from one of the briefs, the reasons lack an appearance of impartiality: ***Cojocaru*** at para. 117; ***Sorger v Bank of Nova Scotia*** (1998), 1998 CanLII 3715 (ON CA), 39 OR (3d) 1 at pp. 8-9, 160 DLR (4th) 66 (CA);

(b) reasons that are merely copied do not disclose the line of analysis used, and can even suggest that the position of one party was merely adopted without any proper analysis: ***Cojocaru*** at paras. 111, 113, 119.

(c) drafting the reasons, and being subjected to the discipline of having to articulate the line of analysis, is itself an integral part of the judicial decision making process: ***Sheppard*** at para. 23; ***R.E.M.*** at para. 12. Merely copying briefs either obscures or eliminates this important step in judicial decision making. When the brief of one party is adopted, the reasons for decision are often merely conclusory: ***Sorger*** at pp. 8-9;

(d) the absence of meaningful reasons inhibits appellate review generally, and the proper application of the particular standard of review: ***Cojocaru*** at paras. 112, 127; ***Fuller Western Rubber Linings Ltd. v Spence Corrosion Services Ltd.***, 2012 ABCA 137 at para. 5, 524 AR 246. This is particularly so where the party quoted has relied on alternative arguments, and the reasons do not make it clear which argument the judge adopted.

(e) if the allegations of fact in one brief are adopted, there is often a failure to explain why the evidence tendered by the other party was discounted, disbelieved, or subordinated: ***Sheppard*** at para. 55.6; ***R.E.M.*** at para. 21; ***Cojocaru*** at para. 118; ***Fuller Western*** at para. 6; ***Janssen-Ortho Inc. v Apotex Inc***., 2009 FCA 212 at para. 77, 392 NR 71; ***Es-Sayyid v Canada (Minister of Public Safety and Emergency Preparedness)***, 2012 FCA 59 at paras. 61-3, 432 NR 261, leave to appeal refused Oct. 5, 2012 SCC #34712.

(f) if the reasons merely adopt the position of one party, and that party has relied on some arguments which are legally correct, and some which are not, the reasons may incorporate errors of law.

(g) if only one of the parties has cited important authority (even if non-binding) , and the arguments of the other party are adopted, there will be no explanation of why this important authority should be distinguished or not followed: ***Fuller Western*** at para. 6.

(h) the practice of merely adopting the written briefs as reasons leads to the temptation of requiring written briefs from counsel on every issue, no matter how important or straightforward. The preparation of written briefs is very expensive, and the courts should not unnecessarily impose this burden on litigants. Trial judges are expected to decide many issues simply based on the oral arguments of counsel.

Many of these problems are manifested in the reasons presently before the Court.

[23] While a chambers judge has an obligation to provide reasons, the absence or inadequacy of reasons is not automatically a reason to allow an appeal: ***F.H. v McDougall***, 2008 SCC 53 at para. 99, [2008] 3 SCR 41. The reasons must meet the two functional purposes set out in ***Sheppard*** at paras. 24, 55.8: the decision must be reasonably intelligible to the parties, and provide the basis for meaningful appellate review. Reasons are not dissected minutely nor out of context: ***R.E.M.*** at paras. 16-8, 35; ***R. v Stirling***, 2008 SCC 10 at para. 13, [2008] 1 SCR 272.

[24] In some cases the reasons are so deficient that a new hearing is required, as in ***Sheppard***, ***Sorger***, and ***Cojocaru***. In other cases meaningful appellate review may well be possible, notwithstanding the deficiencies in the reasons, because the appellate court can discern the basis upon which the decision was made. In still other cases the appellate court may be able to dispose of the controversy, notwithstanding the insufficiency of the reasons, because the record is sufficiently clear to permit a decision. In the latter class of cases, it will be difficult to effectively apply the normal standard of review, because without a clear exposition of the trial judge's analysis, it is difficult to tell if it discloses palpable and overriding error. Nevertheless, rendering a final decision will often be to the advantage of the parties, who will usually not want to be subjected to the expense of a new hearing before the trial court.

[25] In these cases the reasons are inadequate. The content and organization of the two sets of reasons obscures the chambers judge's reasoning process. The Chang reasons at 2011 ABQB 595 start with eight paragraphs that summarize the facts. Starting at paragraph 9 they shift to setting out the applicant Dr. Chang's position, although that change of gears is not noted. Then after paragraph 15 is a heading "The U of A's Argument", although the University and AcuVector filed a common brief. Paragraphs 16 to 47 follow with a copying of those plaintiffs' joint brief, followed by a new heading "Conclusion". Paragraph 48 is a chronology of the steps in the two actions copied out of the plaintiffs' joint brief; it is unclear whether the chambers judge intended to signify that these are his findings of fact. Paragraphs 49 to 67 are a largely generic discussion of the law respecting delay, extracted entirely from Dr. Chang's chambers brief.

[26] Paragraph 61 then appears to be the chambers judge's actual conclusion about inordinate delay, taken again from Dr. Chang's chambers brief; there is no discussion or assimilation of the appellants' arguments. There follow two more paragraphs of generic discussion of the law, followed by paragraphs 65 to 67, which appear to be the chambers judge's finding of prejudice. The reasons end without providing any particular remedy, or stating any conclusion.

[27] The reasons at 2011 ABQB 596 on the Radient application are even more obscure. After six short introductory paragraphs, there is a heading "Analysis". Is all that follows intended to be the chambers judge's reasoning? Paragraphs 7 to 19 that follow are largely a recitation of the evidence, followed by what are clearly extracts from the applicant Dr. Chang's brief, even though these reasons are apparently designed to deal with the Radient applications. Paragraph 17 still uses the wording "it is submitted that", which is inappropriate for any judicial analysis, and is clearly a mere recitation of the allegations in Dr. Chang's brief. Paragraphs 22 to 31 are another generic recitation of the law. They again merely copy Dr. Chang's brief, they are couched in terms of "submissions", and they cannot be described as an "analysis". They talk about "the plaintiff" and "the action", without noting that there are two of each. Several paragraphs of generic discussion and apparent findings follow. Then at paragraph 43 there is again the heading "Conclusion", followed by the chronology of the steps in the two actions. At paragraphs 48 to 50 are the closest thing to any real conclusion by the chambers judge, although they are a mere recitation of Radient's brief.

[28] At this point in the reasons, after having already spent a significant amount of time discussing the law in general terms, the reasons at paragraph 51 then launch in to a fresh generic discussion of the law, involving for the second time a quotation of R. 4.31. This repetition is probably because the chambers judge has copied both from the Radient brief, and from Dr. Chang's brief, and both of those briefs went over the same ground.

[29] Next the reasons at 2011 ABQB 596 seem to move to a discussion of the drop dead rule. Although there have been numerous headings in the reasons to this point, this next heading is lettered "A". It is then followed at paragraph 65 with a another heading "B", which then starts up the second discussion about inordinate delay (previously discussed at paragraphs 23 and 32-34), a discussion about whether the delay is inexcusable (previously discussed at paragraphs 24 and 35), followed by a discussion on prejudice (previously discussed at paragraphs 25-31 and 36-42). Exactly how the chambers judge thought all this discussion fits together is difficult to discern. It may have been his intention to set out the positions of the parties first, and then provide his conclusions. In the end, any line of reasoning used is completely obscured.

[30] As noted, both sets of reasons are full of generic discussions of principles of law such as inordinate delay, and prejudice. The analysis tying these principles of law to the facts of this particular case is difficult to distill, and generally there is no meaningful discussion of the conflicting evidence on these points. There is no analysis of the competing arguments or evidence offered by the University and AcuVector.

[31] The compilation of passages from the chambers briefs does not disclose how the chambers judge arrived at his decision. There were at least two important issues of fact (or mixed fact and law) that required findings of fact or inferences from the evidence: whether there was "inordinate delay", and whether there had been any "prejudice". There was competing evidence on these points. The respondents alleged that witnesses were no longer available, and the appellants countered that the action was heavily dependent on documents, the witnesses were not really missing, or alternatively they were not that important, or had not become unavailable during the period of delay. The respondents alleged prejudice, but the appellants argued they had provided no particulars, and had acquiesced in the passage of time in a manner inconsistent with an assertion of mounting prejudice. There is no sufficient indication from the chambers judge how he resolved these disputes. The respondents argued that they were allowed to "let a sleeping dog lie", but failed to provide any explanation as to why there was no response to direct requests for dates for questioning, as mandated by R. 4.2(b). Where two actions are close to related, steps in one action might advance the other; the chambers judge did not identify this issue or indicate whether it applied here.

14. *1352194 Ontario Inc. v. Vince*, 2021 ONSC; para. 17

> "A "palpable" error is an error that is plainly seen. An "overriding" error is an error that is sufficiently significant to vitiate the challenged findings of fact: *Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235, at paras. 1, 6. An example of a palpable error is a finding made in the absence of evidence or misapprehension of relevant evidence: *Waxman v. Waxman* (2004) 2004 CanLII 39040 (ON CA), 186 O.A.C. 201, at para. 296."

1352194 Ontario Inc. v. Vince

15. *Shahcheraghi v. Divangahi* (2024, BCSC) Pgs. 11-17 - Analysis

Shahcheraghi v. Divangahi

16. *Escape 101 Ventures Inc. v. March of Dimes Canada*, 2022 BCCA 29 paras 102, 103, 104; para 43; para. 2

Escape 101 Ventures Inc. v. March of Dimes Canada

17. *Sparks v. Director of the Ontario Disability Support Program*, 2023 ONSC, Paras 3, 18

Sparks v. Director of the Ontario Disability Support Program

18. *First of Five Incorporated v. Recipe Unlimited Corporation* (Divisional Court, 2024), pgs. 9-11 Issue #1

First of Five Incorporated v. Recipe Unlimited Corporation

Issue #1- Are the Motions Judge's Reasons Sufficient to Permit Appellate Review?

[40] This is an appeal. As a result, the standard of review that is generally applicable is as set out in *Housen v. Nikolaisen* 2002 SCC 33, [2002] 2 S.C.R. 235. For questions of law, the standard is correctness. For questions of fact, the standard is palpable and overriding error. For questions of mixed fact and law, there is a spectrum.

[41] However, no deference is owed in a case where the appellate court cannot understand the legal basis for the decision, or the factual findings made in support of the decision: *Barbieri v. Mastronardi*, 2014 ONCA 416, at para. 23; *Penate (Litigation Guardian of) v. Martyn Estate*, 2024 ONCA 166, at para. 20.

[42] In deciding whether reasons are sufficient, the Court considers various factors. As noted by the Court of Appeal in *Gholami v. The Hospital of Sick Children*, 2018 ONCA 783, at para. 63:

> [63] Appellate intervention may be warranted where the insufficiency of trial reasons prevents meaningful appellate review. Reasons that permit meaningful appellate review justify and explain the result, inform the losing party why he lost, enable informed consideration as to whether to appeal and enable the public to determine whether justice has been done…. [Citations omitted.]

[43] Even if the reasons, on their face, do not reveal the reasons for the decision, a reviewing court must look at the record as a whole to determine whether the reasons are more comprehensible when considered in the context of the record as a whole: *Gholami*, para. 64.

[44] I have concluded that the motions judge's reasons are not sufficient to permit appellate review and must be set aside for three main reasons.

[45] First, the motions judge concluded that First of Five had no automatic right to renew the franchise agreement. The problem is that the renewal provision set out at paragraph 8 sets the right to renew the franchise agreement as the default provision. In other words, First of Five has the right to renew the franchise agreement unless they are in breach of one or more of the provisions set out in Article 4.2 of the agreement. If First of Five is not in breach of any of those provisions, then Recipe would have no choice but to renew the franchise for a further ten years.

[46] From the motions judge's reasons, it is impossible to know if he overlooked the renewal provision, noticed it but misread it as not providing a right of renewal as the default setting, or if he decided that First of Five was, in fact, in default and that First of Five had no justification for its defaults and therefore no right to renew the agreement.

[47] Second, the motions judge's reasons are conclusory. They do not explain what evidence was relied upon or why it was relied upon. Further, the Court cannot infer from the record either what inferences the trial judge made or what evidence he relied upon. My concerns in this respect are highlighted by the problems in determining which party is actually responsible for Recipe's claims of default on the part of First of Five.

[48] As I have set out above, the claims of default raised by Recipe are complicated issues that require a detailed consideration of both the terms of the various agreements and the underlying factual matrix. They may also engage the *Arthur Wishart Act (Franchise Disclosure), 2000*, S.O. 2000, c. 3. Section 3 of that legislation imposes a duty of "fair dealing" in the performance and enforcement of every franchise agreement. There is also case law that deals with the general obligation of a party to deal in a good faith, fair and commercially reasonable manner when renewing (or deciding not to renew) a contractual agreement. See, for example, *C.M. Callow Inc. v. Zollinger*, 2020 SCC 45, [2020] 3 S.C.R. 908 at para. 47.

[49] This duty might inform Recipe's claims of defaults under the franchise agreement, particularly given both their timing and the gap that exists between the issues arising and the first Notice of Default

[50] Third, the motions judge did not address the test to be applied to whether an injunction should be granted in any meaningful way. That standard is set out in *RJR-MacDonald Inc. v. Canada (Attorney General)*, 1994 CanLII 117 (SCC), [1994] 1 S.C.R. 311, and requires the moving party to show a serious issue to be tried (or a strong *prima facie* case), irreparable harm and that the balance of convenience favours the party seeking the injunction. For the purposes of this analysis, I have assumed that the facts require a strong *prima facie* case.

[51] The closest the motions judge came to addressing these issues was his statement that "the injunction requested would essentially extend the agreement indefinitely, pending the resolution of the litigation, which could easily take years." This statement arguably addressed the balance of convenience between the parties. I accept Recipe's point that they only have to succeed on one branch of the test in order to successfully resist First of Five's request for an injunction.

[52] However, the motions judge's reasons on the balance of convenience fail to address the interpretation of the renewal clause or the obligations of the franchisor under the *Arthur Wishart Act*. It also fails to address First of Five's claims in respect of the profile that owning this franchise gives the shareholders of First of Five in the community. It is, therefore, a conclusory statement that does not address key facts and does not explain why the motions judge made his decision. It may also be founded on an erroneous interpretation of the renewal clause, but I cannot determine that either.

[53] Counsel for Recipe argued that these decisions must be made promptly and that appellate courts should be deferential to motions judges in these circumstances. In support of this assertion, counsel pointed to the decision in *PDM Entertainment Inc. v. Three Pines Creations Inc.*, 2015 ONCA 488, 388 D.L.R. (4th) 478. In that case, the application judge's reasons were described as "terse" and conclusory. However, the Court of Appeal was satisfied that the reasons did not cross the line and fall into the category of "insufficient".

[54] The *Three Pines* decision does not assist Recipe, as it is distinguishable from the case before this Court in two respects. First, in *Three Pines*, the parties requested (and received) both an urgent hearing and an immediate decision. The applications judge released his reasons the morning after the hearing. In this case, the motions judge released his reasons more than two months after the motion was argued. I accept that, in reviewing the sufficiency of reasons, appellate courts must account for the speed at which courts of first instance are sometimes required to render their decisions. That consideration does not apply in this case.

[55] Second, in *Three Pines*, the Court's reasons ran to several pages, and the application judge clearly grappled with the issues that the parties placed before him. As I have discussed above, there is no basis on which this Court can conclude that the motions judge grappled with the issues in this case. In addition, the record does not assist in clarifying the basis for the motions judge's decision. The claims are complicated, there are factors that favour both sides in granting or denying an injunction and there is a significant issue (discussed at paragraphs 45-46) in the motion judge's interpretation of a key part of the franchise agreement.

[56] For these reasons, I would find that the reasons of the motions judge are inadequate and I cannot determine the factual grounds for the motion judge's decision. As a result, the reasons are owed no deference and the decision must be set aside.

TAB 7 **SCHEDULE "B"**

RELEVANT STATUTES

1) Section 6.03.1 of the Rules of Civil Procedure, R.R.O. 1990.

2) Section 6(1) of the Courts of Justice Act, RSO 1990, c. C. 43.

3) Judicial Review Procedures Act, R.S.O. 1990, C. J. 1.

4) Judicial Review Procedures Act, Section 2 (3).

Judicial Review Procedure Act

R.S.O. 1990, CHAPTER J.1

CURRENT Consolidation period: July 8, 2020 - e-Laws currency date (October 15, 2025)

Last amendment: 2020, c. 11, Sched. 10.

Legislative History

Definitions

1 In this Act,

"application for judicial review" means an application under subsection 2 (1); ("requête en révision judiciaire")

"court" means the Superior Court of Justice; ("Cour")

"licence" includes any permit, certificate, approval, registration or similar form of permission required by law; ("autorisation")

"municipality" has the same meaning as in the *Municipal Affairs Act*; ("municipalité")

"party" includes a municipality, association of employers, a trade union or council of trade unions which may be a party to any of the proceedings mentioned in subsection 2 (1); ("partie")

"statutory power" means a power or right conferred by or under a statute,

(a) to make any regulation, rule, by-law or order, or to give any other direction having force as subordinate legislation,

(b) to exercise a statutory power of decision,

(c) to require any person or party to do or to refrain from doing any act or thing that, but for such requirement, such person or party would not be required by law to do or to refrain from doing,

(d) to do any act or thing that would, but for such power or right, be a breach of the legal rights of any person or party; ("compétence légale")

"statutory power of decision" means a power or right conferred by or under a statute to make a decision deciding or prescribing,

(a) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or

(b) the eligibility of any person or party to receive, or to the continuation of, a benefit or licence, whether the person or party is legally entitled thereto or not,

and includes the powers of an inferior court. ("compétence légale de décision") R.S.O. 1990, c. J.1, s. 1; 2002, c. 17, Sched. F, Table; 2006, c. 19, Sched. C, s. 1 (1).

Section Amendments with date in force (d/m/y)

Applications for judicial review

2 (1) On an application by way of originating notice, which may be styled "Notice of Application for Judicial Review", the court may, despite any right of appeal, by order grant any relief that the applicant would be entitled to in any one or more of the following:

1. Proceedings by way of application for an order in the nature of mandamus, prohibition or certiorari.

2. Proceedings by way of an action for a declaration or for an injunction, or both, in relation to the exercise, refusal to exercise or proposed or purported exercise of a statutory power. R.S.O. 1990, c. J.1, s. 2 (1).

Error of law

(2) The power of the court to set aside a decision for error of law on the face of the record on an application for an order in the nature of certiorari is extended so as to apply on an application for judicial review in relation to any decision made in the exercise of any statutory power of decision to the extent it is not limited or precluded by the Act conferring such power of decision. R.S.O. 1990, c. J.1, s. 2 (2).

Lack of evidence

(3) Where the findings of fact of a tribunal made in the exercise of a statutory power of decision are required by any statute or law to be based exclusively on evidence admissible before it and on facts of which it may take notice and there is no such evidence and there are no such facts to support findings of fact made by the tribunal in making a decision in the exercise of such power, the court may set aside the decision on an application for judicial review. R.S.O. 1990, c. J.1, s. 2 (3).

Power to set aside

(4) Where the applicant on an application for judicial review is entitled to a judgment declaring that a decision made in the exercise of a statutory power of decision is unauthorized or otherwise invalid, the court may, in the place of such declaration, set aside

the decision. R.S.O. 1990, c. J.1, s. 2 (4).

Power to refuse relief

(5) The court may refuse to grant any relief on an application for judicial review. 2020, c. 11, Sched. 10, s. 1.

(6) Repealed: 2020, c. 11, Sched. 10, s. 1.

Section Amendments with date in force (d/m/y)

Defects in form, technical irregularities

3 On an application for judicial review in relation to a statutory power of decision, where the sole ground for relief established is a defect in form or a technical irregularity, if the court finds that no substantial wrong or miscarriage of justice has occurred, the court may refuse relief and, where the decision has already been made, may make an order validating the decision, despite such defect, to have effect from such time and on such terms as the court considers proper. R.S.O. 1990, c. J.1, s. 3.

Interim order

4 On an application for judicial review, the court may make such interim order as it considers proper pending the final determination of the application. R.S.O. 1990, c. J.1, s. 4.

Time for bringing application

5 (1) Unless another Act provides otherwise, an application for judicial review shall be made no later than 30 days after the date the decision or matter for which judicial review is being sought was made or occurred, subject to subsection (2). 2020, c. 11, Sched. 10, s. 2.

Extension

(2) The court may, on such terms as it considers proper, extend the time for making an application for judicial review if it is satisfied that there are apparent grounds for relief and that no substantial prejudice or hardship will result to any person affected by reason of the delay. 2020, c. 11, Sched. 10, s. 2.

Same, other Acts

(3) Subsection (2) applies with respect to any limitation of time for the bringing of an application for judicial review under any other Act, unless that Act expressly provides otherwise. 2020, c. 11, Sched. 10, s. 2.

Transition

(4) Subsection (1) applies with respect to the judicial review of a decision that is made or of a matter that occurs on or after the day section 2 of Schedule 10 to the *Smarter and Stronger Justice Act, 2020* comes into force. 2020, c. 11, Sched. 10, s. 2.

Section Amendments with date in force (d/m/y)

Application to Divisional Court

6 (1) Subject to subsection (2), an application for judicial review shall be made to the Divisional Court. R.S.O. 1990, c. J.1, s. 6 (1).

Application to judge of Superior Court of Justice

(2) An application for judicial review may be made to the Superior Court of Justice with leave of a judge thereof, which may be granted at the hearing of the application, where it is made to appear to the judge that the case is one of urgency and that the delay required for an application to the Divisional Court is likely to involve a failure of justice. R.S.O. 1990, c. J.1, s. 6 (2); 2006, c. 19, Sched. C, s. 1 (1).

Transfer to Divisional Court

(3) Where a judge refuses leave for an application under subsection (2), he or she may order that the application be transferred to the Divisional Court. R.S.O. 1990, c. J.1, s. 6 (3).

Appeal to Court of Appeal

(4) An appeal lies to the Court of Appeal, with leave of the Court of Appeal, from a final order of the Superior Court of Justice disposing of an application for judicial review pursuant to leave granted under subsection (2). R.S.O. 1990, c. J.1, s. 6 (4); 2006, c. 19, Sched. C, s. 1 (1).

Section Amendments with date in force (d/m/y)

Summary disposition of mandamus, etc.

7 An application for an order in the nature of mandamus, prohibition or certiorari shall be deemed to be an application for judicial review and shall be made, treated and disposed of as if it were an application for judicial review. R.S.O. 1990, c. J.1, s. 7.

Summary disposition of actions

8 Where an action for a declaration or injunction, or both, whether with or without a claim for other relief, is brought and the exercise, refusal to exercise or proposed or purported exercise of a statutory power is an issue in the action, a judge of the Superior Court of Justice may on the application of any party to the action, if he or she considers it appropriate, direct that the action be treated and disposed of summarily, in so far as it relates to the exercise, refusal to exercise or proposed or purported exercise of such power, as if it were an application for judicial review and may order that the hearing on such issue be transferred to the Divisional Court or may grant leave for it to be disposed of in accordance with subsection 6 (2). R.S.O. 1990, c. J.1, s. 8; 2006, c. 19, Sched. C, s. 1 (1).

Section Amendments with date in force (d/m/y)

Sufficiency of application

9 (1) It is sufficient in an application for judicial review if the applicant sets out in the notice of application the grounds on which the applicant is seeking relief and the nature of the relief. 2020, c. 11, Sched. 10, s. 3.

Exerciser of power may be a party

(2) For the purposes of an application for judicial review in relation to the exercise, refusal to exercise or proposed or purported exercise of a statutory power, the person who is authorized to exercise the power may be a party to the application. R.S.O. 1990, c. J.1, s. 9 (2).

Idem

(3) For the purposes of subsection (2), any two or more persons who, acting together, may exercise a statutory power, whether styled a board or commission or by any other collective title, shall be deemed to be a person under such collective title. R.S.O. 1990, c. J.1, s. 9 (3).

Notice to Attorney General

(4) Notice of an application for judicial review shall be served upon the Attorney General who is entitled as of right to be heard in person or by counsel on the application. R.S.O. 1990, c. J.1, s. 9 (4).

Section Amendments with date in force (d/m/y)

Record to be filed in court

10 When notice of an application for judicial review of a decision made in the exercise or purported exercise of a statutory power of decision has been served on the person making the decision, such person shall forthwith file in the court for use on the application the record of the proceedings in which the decision was made. R.S.O. 1990, c. J.1, s. 10.

References in other Acts, etc.

11 (1) Subject to subsection (2), where reference is made in any other Act or in any regulation, rule or by-law to any of the proceedings enumerated in subsection 2 (1), such reference shall be read and construed to include a reference to an application for judicial review. R.S.O. 1990, c. J.1, s. 11 (1).

Proceedings under *Habeas Corpus Act*

(2) Nothing in this Act affects proceedings under the *Habeas Corpus Act* or the issue of a writ of certiorari thereunder or proceedings pursuant thereto, but an application for judicial review may be brought in aid of an application for a writ of *habeas corpus*. R.S.O. 1990, c. J.1, s. 11 (2).

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5) Sections 132-134 of the Courts of Justice Act.

6) CPSO - Essentials of Medical Professionalism - **Link**

7) Legislation

LEGISLATION & BY-LAWS

CPSO's role and authority are defined by government legislation and CPSO By-laws

The role of CPSO and its authority and powers are set out in the *Regulated Health Professions Act (RHPA)*, the *Health Professions Procedural Code*, which is Schedule 2 to the *RHPA*, and the *Medicine Act*. In addition, there are regulations made under both the *RHPA* and the *Medicine Act*.

Regulated Health Professions Act, 1991 — Legislation and Associated Regulations

- *Regulated Health Professions Act, 1991* and *Health Professions Procedural Code*
- ONTARIO REGULATION 39/02: Certificates of Authorization
- ONTARIO REGULATION 107/96: Controlled Acts
- ONTARIO REGULATION 59/94: Funding for Therapy or Counselling for Patients Sexually Abused by Members
- ONTARIO REGULATION 260/18: Patient Criteria
- ONTARIO REGULATION 261/18: Register Information
- ONTARIO REGULATION 262/18: Prescribed Offences

Medicine Act, 1991 — Legislation and Associated Regulations

- *Medicine Act, 1991*
- ONTARIO REGULATION 114/94: General (includes Parts II -XI on Advertising; Conflicts of Interest; Records; Quality Assurance; Funding for Therapy and Counselling; Inspection of Premises where Certain Procedures are Performed
- ONTARIO REGULATION 856/93: Professional Misconduct
- ONTARIO REGULATION 865/93: Registration

CPSO By-laws

Section 94. (1) of the *Health Professions Procedural Code* provides CPSO's Board of Directors the authority to make by-laws relating to the administrative and internal affairs of CPSO:

8) *Medicine Act*, 1991

Medicine Act, 1991, Ontario Regulation 856/93, Professional Misconduct

9) *Statutory Powers Procedure Act,* R.S.O. 1990, c. S. 22, Section 20 (d).

10) *Statutory Powers Procedure Act,* R.S.O. 1990, c. S. 22, Section 21.1.

Correction of errors
21.1 A tribunal may at any time correct a typographical error, error of calculation or similar error made in its decision or order. 1994, c. 27, s. 56 (36).

TAB 5 Order with Memo

MEMO (regarding issued and entered Order)
File #COA-25-OM-034

Background regarding Order

Ms. Welkoff ("I" me" "my"), moving party, served a Notice of Motion for Leave to Appeal on August 22, 2025, and submitted it for filing to COA on August 26, 2025, and it, along with the Decision Judgment, was stamped filed by the COA on September 22, 2025. I served and submitted for filing my Motion Record/Factum to COA on October 22, 2025. On November 7, 2025, I received notification from COA for required correction, re-serve and resubmit of my Motion Record. Despite much researching, learning, etc., there was a genuine misunderstanding of the decision/judgment and an "issued and entered" order aspect and the complex legal/court procedures as a self-represented litigant. I corresponded right away with the Divisional Court on November 7, 2025, regarding an "issued and entered order".

From November 7th until November 27th, 2025, I worked on the matter of an issued and entered order, communicating back and forth with both the Divisional Court and the responding parties. There were exhaustive attempts at approval as to "form and content" of the draft order between the parties, without success, which led to a Notice of Appointment to Settle Order. On November 27th I served and as directed by the Divisional Court submitted for filing by email to the Divisional Court the Notice of Appointment to Settle, which included notifying the Court as to the urgency involved/time limits/ deadlines.

From that point (November 27th, 2025) on, there was no further communication from Divisional Court for many weeks (which was unusual). I during that time period verbally by phone communicated with Divisional Court regarding the matter. Many calls were not picked up, however some were picked up, and during those calls I explained the matter to which several staff replied for me to re-send and mark "urgent" again, which I did. As well, several other staff checked and confirmed receipt of the documents and requests for status, advised they would check with those above them, some staff confirming that all was already previously forwarded on up. I requested, and they all promised they would send an email to me right away to at least provide confirmation of receipt, and/or to provide the status of the matter. During that time period I also sent in writing many emails to Divisional Court requesting the status of the matter. Being understanding of the court's high volume of submissions, appointments, etc., I requested many times both verbally by phone and in writing if I could "at least" get confirmation of receipt and the court could simply state that notification of appointment would be occur in due course. With each email I attached copies of my previous emails that requested information as to the status of the matter. None of my emails were replied to by Divisional Court. Unexplained ignoring in that regard.

When Divisional Court was not responding at all despite what was communicated to me and was promised by staff, and time limit with COA was almost up, it necessitated me submitting a Notice of Motion for Extension of Time to re-submit my Motion Record to COA. In the meantime, I as well continued trying to get a response from Divisional Court. A motion for extension of time to COA did proceed on January 5th, 2026, and I was granted time extension.

My most recent attempts before the January 5th motion hearing in getting the status of the matter from Divisional Court were on December 17th, 2025, and December 19th, 2025 (and I also again submitted the documents, through the online portal), so into the New Year (given the holidays and given the last verbal conversation with and promise from Divisional Court staff I waited patiently for two weeks into the new year 2026. I could not understand why still no reply of any type came from Divisional Court. I felt I could not afford to wait any longer than that into the new year, and emailed Divisional Court yet again on Thursday, January 15th early morning requesting status (again with red marked urgent notation). No response. I also emailed the CourtsPortal on Monday, January 19th, 2026, as to the status as I did not hear back even though an auto message on December 19th stated they would respond as to the filing within three business days.

I emailed the Divisional Court again on January 19th late afternoon, and I decided to include with that email a copy of the COA's Judge's endorsement of January 5th, 2026 granting to me the extension of time (a copy attached hereto), and on January 20th, 2026 late afternoon I called the Divisional Court which call was picked up and I spoke with a gentleman clerk on staff. During this conversation I detailed yet again all that had transpired and my concern as to why this matter was being ignored and as to why I did not even ever get any response at all as was promised by many staff members. The gentleman said he would look into the matter and get back to me by email. I could not accept that type of statement I had heard too many times before and never received any "getting back to me" and told that to the clerk. I requested if he could look into the file and advise me while on the call. He looked it up and confirmed that the last email sent from me was dated January 19th, 2026, the day before. I asked him if all the other emails are there. He started going back some and confirmed. I told him there was a judge's endorsement attached to the last email sent the day before. I told him how the ignoring by Divisional Court had forced more volume of work on me, and on the courts/judges as well, due to having to motion for an extension of time, that it was granted, and that in no way could I go on again for further weeks on end without any proper word in writing at all from the Divisional Court. I remained polite but told him of my great concern about it all. I communicated that there were far too many detailed phone discussions with many staff and far too many emails for it to be just some sort of "oversight". I inquired as to why the apparent stalling and from where it was coming from? The clerks? the registrars? the judges? He said he would submit a request for action. I requested of him to at least send in writing a confirmation of receipt of what was sent from me in the meantime as requested many times before. He said he would, and he again advised he would also submit a request for action to above him. I reminded again that I did hear that before many times, and I hoped this time it was legitimately meant. He said he completely understood and said he would definitely send. He did send an email soon after the phone call that afternoon confirming receipt of the Notice of Appointment to Settle Order documents. I sent an email back confirming our phone discussion and all what he advised during our phone discussion in order to add in ensuring the progression of the matter. In about an hour's time after that, the Divisional Court sent notification of an "appointment before the Registrar" for two days later on January 22nd to be held via Zoom.

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drafting order

As above stated, all draft orders from myself and counsel for the respondent doctor went through several amendments. My issues with counsel's own first draft order was that he wrote: "ON READING the materials filed and on hearing oral submissions from the parties, it is ordered…". It was inaccurate due to the fact that the wording "on reading the materials filed" is stating that the judges read all the materials filed. The judges only read part of the materials filed. It was also inaccurate in stating "on reading oral submissions from the parties". Not all parties gave submissions. A further draft order from counsel was inaccurate in that it stated "counsel for the applicant". I do not have counsel. My concern was that the order should reflect the facts and as well be pursuant to the Rules of Practice. It should be reflective of the decision outcome (whether justifiable or not) and very importantly also be accurate as to the facts in it's preamble leading to the ordered decision outcome. This is very important to ensure fairness in the case/equal fairness to all. A court order should have integrity.

Hence, it led to draft order of mine reading "ON READING in part the materials filed and on hearing submissions from the applicant and counsels for the HPARB and Dr. Solomon, with no submissions from counsel present for CPSO. (Counsel for CPSO chose to be present but to not participate in the hearing, there were no submissions from counsel for CPSO).

Counsel for respondent doctor amended his draft orders to "ON READING the materials filed and on hearing submissions from applicant and counsel for HPARB and doctor, with no submissions from counsel for CPSO". He wrote in an email that the problem with the wording "on reading in part the materials filed" is that it suggests that the judges did not read all of the materials. I replied in an email that it was his draft order wording "on reading the materials filed" *as I had already previously communicated* that was the problem because it states that all the materials filed were read, Counsel's wording is what is misleading, not the words "on reading in part the materials filed". All material filed were *not* read, and one of the judges even stated as such. Counsel's wording is misleading as to the facts.

I did amend several times some wordings from my first original draft order throughout the different draft orders I presented, bringing it to my final draft. I could not amend it any further because it was already leaving out important factors, and that any statements that were now left in the draft order must be true to the facts. I could not amend it any further, the draft order must have integrity.

appointment

Upon the appointment date January 22nd, I attempted several times earlier than the start time of 11:30 a.m. until about ten minutes past the starting time to enter the meeting however for whatever reasons upon the dialings of the numbers provided by the court to enter the Zoom meeting the system kept telling me to try again later. I kept trying, and eventually was invited in by the host. An Assistant Registrar introduced himself and stated that present at this meeting was himself (the assistant registrar), as well as the Registrar, a Ms. P*, counsel (Mr. Pellegrino) for the respondent Dr. Solomon, and Ms. Welkoff self-representing applicant.

On January 21st, the day before the appointment, counsel Mr. Pellegrino sent an amended draft order proposed by him and a copy of my older recent draft order to the assistant registrar stating he was sending the two proposed draft orders for ease of reference. I, on January 21st, sent a new amended proposed draft order from myself for ease of appointment, and ease of settling the order as to form and content as to the decision (not a consent order).

The assistant registrar (after intro) directly right at the start of the meeting stated that he read the materials and that he would issue and enter the respondent's draft order. I asked him if he had received my draft order that I had sent the day before. The assistant registrar stated he could not find this, and I requested that he again look because it was important he should have all necessary material. I told him there was no problem when I sent the email so he should have it, but that I would email it to him again that very minute if that would be helpful rather than him searching for it. Mr. Pellegrino interrupted stating that he "*could assist me*" (which was a common sort of phrase he used many times through all the proceedings, including in the HPARB hearing, including "assisting the HPARB hearing panel", which purpose was in reality assisting his own client) and send it, that the confusion could be because I had attached two draft orders to my email, an older one and the new further amended one, and he could send the new one. I corrected Mr. Pellegrino's inaccurate statement that I attached two orders to my email sent the day before, that I had only attached one order in that email being my newer final draft order. I had to be even stronger that I had been, and I was tired of this type thing from Mr. Pellegrino, so in this appointment when this sort of thing happened again I communicated that I would speak and do for myself, not Mr. Pellegrino for me. I told Mr. Pellegrino that I would take care of sending it to the assistant registrar. (It was Mr. Pellegrino that had attached two orders to his email sent, his own and my older draft order.) I re-sent my email from the day before that attached the one newer draft order, which the assistant registrar confirmed as received. I let him know that now with all the parties' amendments the two proposed orders were almost identical other than a couple of important issues.

The assistant registrar then again stated that he was going to issue the draft order from the counsel. He asked if I had any objections. I said yes, of course I do, as was already known. I then proceeded to explain why, to which he kept interrupting me, and it was evident he was not really interested in what I had to say, but I kept pursuing my right to speak about my positions, my submissions, my objections, in regard to the draft order (which is the purpose of an appointment to settle an order), despite the constant talking over me by the registrar and interruptions from him. I explained why my objection to part of the order, as above detailed.

The assistant registrar argued back/stating that judges are required to read *all* the materials filed so it is automatically stated in the orders that the judges read all the materials filed and that is why it should be written in the order "ON READING the

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materials filed…" and that the order submitted by counsel would be issued and entered. He stated that it is required that the "form" for an order be followed. Through interruptions by him, I argued that "forms" of documents are just that, "forms", "templates", but identical wordings from "forms" cannot and is not meant to be of course used in all cases, that each case has to be fitted and the wordings in forms have to be tailored to fit the individual cases. I submitted that I never heard of such a thing as what the assistant had just said. I submitted that I even read in many rules and instructions that forms required necessary tailoring etc. It is definitely quite apparent that pleadings all follow court "forms" but are all different in the specific wordings, as has been in all previous documents filed in this court action and is the obvious occurrence in every court case. How can it possibly not be?

I submitted that I wrote the accurate facts in the draft order as what, of course, should be written. It cannot have inaccurate, false, untrue, or misleading wordings. It cannot have words in it in contradiction to the facts, in contradiction even to what the judge(s) stated.

The assistant registrar stated that I should read Rules, and that Rule 59 states the Rules about orders. I replied that indeed I have and do read and refer to all sorts of Rules, including the Rules of Practice, the Rules of Civil Procedure etc., I have to, it's a must of course, and of course I did in regard to orders when I had to draft one, and a copy of Rule 59 is also printed out right in front me right now. I stated that nowhere in the Rules does it state that any documents must copy identically all wordings that are in the templates of court forms. In regard to Rule 59 about orders, it states:

59.03 (3) (c) "a recital of the particulars necessary to understand the order"
59.04 (3) (b) complies with and reflects the terms of an "endorsement" or "decision" made by the person(s) indicated in the draft order.

- nowhere in the "decision" does it state that all materials were read;
- it was confirmed by the judge at the hearing that not all materials were read, they read the materials "to the extent that we thought was helpful"
- the audio recording of the hearing also confirms this
- it is unknown which material the panel chose to read and which material the panel chose not to read
- hence, the sentence "on reading in part the materials filed" is the only legitimate way it can be written

A draft Order cannot have misrepresentative/misleading wordings.

I responded that if a judge stated in the hearing that the judges read the materials filed to the extent we thought helpful, and we don't know what they chose to read and what they chose not to read in order for us to be able to list it, as some Orders actually do, then the appropriate sentence would be ON READING in part the materials filed.

The assistant registrar argued that we do know the list of what the judges read, and he started to list *all* the documents filed... to which I stated that we don't know that, we don't know exactly what they read, to which he argued yes *he* knows, to which I replied how does *he* know? He said because he knows, they were filed so they were all read. I said materials being filed is not the same thing as materials being read. Filed and read are two separate things, have two separate meanings. He asked how do I know all materials were *not* read? I replied I know for *several* reasons, *one* being that the judge said that at the hearing, and that I don't understand why the arguments from counsel, or whomever, because all counsels and myself were at the hearing and we all heard it. The assistant registrar said how does he (assistant registrar) know that the judge said that? I replied how does he know the judge didn't? Was he at the hearing? We all were, counsels and myself, and others, so our written drafts should reflect the facts. The fact is that if Mr. Pellegrino does not *like* the sentence "on reading in part the materials filed" because "it suggests that the judges did not read all the materials filed", then he is confirming that the opposite occurs with the sentence "on reading the materials filed", it's meaning states that all materials were read. I said there shouldn't be such an obvious double standard. I said that the sentence "on reading in part the materials filed" is not *suggesting* that the judges did not read all the materials, it is *stating* it, because *it is the fact*. I stated, that quite a while back soon after the hearing I wanted the audio of the hearing. I got a CD of the court audio recording for my file. The audio does confirm this.

The assistant registrar asked if there was any other objection. I again said that both draft orders are now almost identical, other than the inaccurate sentence in counsel's draft order and the accurate one in mine regarding materials read, and that my draft order adds the word "present" to the sentence "with no submissions from counsel present for the CPSO". The assistant registrar then argued stating CPSO made submissions. I replied counsel for CPSO was present but did not make submissions. He argued stating they did. They filed documents. Without getting into a discussion about what was actually in CPSO's documents "filed" (which were almost all statements that they were not making submissions or filing certain documents etc.), I said that what we are talking about is the sentence in the order about submissions at the hearing and my wording is that counsel for CPSO was present at the hearing (it wasn't that she just didn't show up at all) but she chose not to participate and did not make submissions. He started saying "no…" and wanted more argument about it but I chose not to participate more in that argument as I felt and made it known that I had already gave my submissions regarding that and that they remain my submissions.

He then asked me an odd question, if I read the counsel's draft order. I said "of course I did!" - all that was already well established, so it was quite an odd question. I stated that I read *all* the draft orders, that I amended my first one and then there were the issues in counsel's first one, and there were subsequent amended draft orders etc. and now the final two proposed draft orders.

He asked me if we should let counsel Mr. Pellegrino leave the meeting to which I replied that it was up to Mr. Pellegrino, that I cannot speak for him. The assistant registrar told Mr. Pellegrino that he could leave the meeting, and that the order "as was earlier discussed" would be issued and entered that afternoon. Mr. Pellegrino stated he would like to ask if Ms. Welkoff could

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send him a copy of the hearing audio recording, to which I replied that I don't know how to send a copy of a CD of the recording to him, and that I am already overwhelmed with work, however I can try to figure it out and try to send one. I stated that also I would have to as well first educate myself on the rules in regard to that, that I had to sign some sort of undertaking in regard to the CD disc recording. Mr. Pellegrino stated that they would take care of getting a copy for themselves.

The assistant registrar again stated he was going to issue and enter counsel's draft order, and yet again asked do I have any objections to counsel's draft order? I *yet again* said yes of course as he already knows. He kept it going around in circles, as if he wanted to pressure me into having no objections or something. I wanted that going around in circles stopped so I said my draft order is accurate to the facts, and that is the draft order I am submitting. He said again it was counsel's draft order that would be issued that afternoon. I then stated that I believe that the Rules state that if a party still has objections to part of the order then I believe I am entitled to do a notice of appointment to settle order to the judges. He was quiet. I stated that I will check again in the Rules I have in front of me, I confirmed yes Rule 59(9) states that. He said yes, ok, serve it and file it.

I was quite bewildered about something else. I asked him as to why at the beginning of the meeting he had stated a woman's name referring to be the "Registrar" as being in the meeting, because there was no such attendance by such a person. He was very quiet and did not answer for quite a number of seconds. It was apparent he did not know how to go about answering that, which is a question that should be easily answered. He then said "yes, she is attending the meeting". I asked how could she be, there has been and there is no presence of her at all. He said no she is present. I said where? Listening? Could I please ask her a question. He said that "he was" conducting the meeting, I do not have to ask her a question. I said yes I know you were/are the one who conducted/is conducting the meeting. I am just confused as to why she was included at the beginning of the meeting as being "here we have in attendance"… and you listed the people which included her. There has been no indication that she has been present at all. What was her name again, a name starting with the letter "P" that you said? When he gave the name "P", I recognized the name, because during the previous "no responses" from Divisional Court I searched for others besides the main Divisional Court number I could call, and her name came up and I had called the listed number to which an answering recording was her stating her name and to leave a message (which I did) and stated that she would return call within 48 hours (which did not happen). I asked him again, is she in attendance or not? He said yes she is. I asked could I please then talk to her. He hesitated yet again. He then said she is not present. I stated that he was really confusing me. I asked "has she and is she or is she not attending, present, at this zoom meeting?" It just kept going around in circles like that for a bit and I just came to the logical conclusion that she did not attend that meeting even though the assistant registrar stated so. Therefore, I just gave up on a straight answer from him regarding that concern.

I went back to the notice of appointment to settle order and what was going to be the timing for it. I told him that I hoped that this time my notice of appointment would not be ignored, avoided, stalled, or delayed, as before, that I understand there are other appointments in other cases to be done, and also perhaps with deadlines coming up for them, and I cannot just expect to bud-in, however I do have an extension of time granted and I need to know that the matter of an appointment will not be yet again ignored and not responded to as before, that it would not be fair to me to yet again have do another extension of time motion to COA. He said to send a cc of the email serving and filing it to his email address. Directly after the appointment I served and submitted to the Divisional Court with cc to the assistant registrar the Notice of Appointment to Settle Order. However, the assistant registrar right away issued and entered the order that afternoon, directly after that submission of mine. He went ahead and issued and entered the order without approval from all parties as to form and content and without awaiting appointment with judge(s).

I responded by communicating in writing to him and the Divisional Court my concerns regarding that. As well, I advised that the draft order that was prematurely issued/entered was the draft order submitted by the Mr. Pellegrino, counsel for the respondent doctor, not my draft order, and yet the backing sheet had my name, address etc. on it as if I submitted that draft order. I advised that it should not have my name and particulars on it, it should have Mr. Pellegrino/McCarthy, Tetrault). I advised that having my name, etc. on it was highly improper (and astonishing that it would actually be done), and that it was very concerning. I also confirmed that the assistant registrar stated he would pursue getting the appointment date to settle the order as soon as possible.

I was in a dilemma as to whether I should add the Order issued and entered on January 22nd, 2026 by the assistant registrar to my Motion Record for Leave to Appeal and re-submit to the COA my Motion Record for filing, with a memo in it advising that I have objected to part of the Order and awaiting another appointment to settle the order; or should I add the Order that was issued and entered by the assistant registrar to my Motion Record for Leave to Appeal and re-submit to the COA my Motion Record for filing, with the notation in it advising that I have objected to part of the Order and *not* continue to pursue another appointment to settle order; or should I *not* re-submit my Motion Record *yet* and await for yet the second appointment to settle the order. I was worried as to the timing of the Divisional Court regarding the appointment, as I did not want yet another requirement for another extension of time.

The assistant registrar notified later that day that he changed the backing sheet but did not respond as to the other important issues and concerns. The next day I received an email from the assistant registrar that the judge directed that there would be no appointment. It was concerning that I was denied that right, and I communicated that concern to the Divisional Court.

Therefore, I am now attaching to my Motion Record herein the issued and entered Order with this attached memo regarding my objections as to part of the content of the order that were never properly addressed by the Divisional Court.

Order of Divisional Court

Court File No.: 525/24

ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)

THE HONOURABLE JUSTICE BACKHOUSE	)	FRIDAY, THE 8th DAY
THE HONOURABLE JUSTICE LOCOCO	)	OF AUGUST, 2025
THE HONOURABLE JUSTICE JENSEN	)	

B E T W E E N

ELAINE WELKOFF

Applicant

and

HEALTH PROFESSIONS APPEAL AND REVIEW BOARD, COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO and DR. LEIGH SOLOMON

Respondents

ORDER

THIS APPLICATION for Judicial Review, made by the Applicant Elaine Welkoff for the relief sought as set out in her Notice of Application for Judicial Review of September 3, 2024, being, among other things, for an order in the nature of certiorari quashing the decision of the Health Professions Appeal and Review Board dated August 8, 2024, was heard on June 26, 2025, at Toronto, before Lococo, Jensen, Backhouse, JJ.

ON READING the materials filed and on hearing submissions from the Applicant (self-represented) and from counsel to the respondents, the Health Professions Appeal and Review Board and Dr. Leigh Solomon, and with no submissions from the respondent the College of Physicians and Surgeons Of Ontario, the decision of the Court having been reserved on June 26, 2025, and upon the decision and reasons of the Court being released on August 8, 2025,

1. **THIS COURT ORDERS** that the Application for Judicial Review is dismissed; and

2. **THIS COURT FURTHER ORDERS** that, as the parties did not seek costs, there is no order as to costs.

Saurabh Baweja

Digitally signed by Saurabh Baweja
Date: 2026.01.23 09:21:44 -05'00'

(Assistant Registrar)

ELAINE WELKOFF Applicant	and	HEALTH PROFESSIONS APPEAL AND REVIEW BOARD ET AL. Respondents	Court File No.: 525/24

ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)

Proceeding commenced at TORONTO

ORDER
(DISMISSING APPLICATION FOR JUDICIAL REVIEW)

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